Standard of Practice

Conflict of Interest

Initial Approval: January 1, 2019 **Effective Date: January 1, 2019**

Standards of Practice of Medicine set out the requirements related to specific aspects for the quality of the practice of medicine. Standards of Practice of Medicine provide more detailed information than contained in the *Regulated Health Professions Act*, Regulations, and Bylaws. All registrants must comply with Standards of Practice of Medicine, per section 86 of the *Regulated Health Professions Act*.

This Standard of Practice of Medicine is made under the authority of section 82 of the *Regulated Health Professions Act* and section 15 of the CPSM Standards of Practice Regulation.

1. Conflict of Interest Involving Financial or Personal Gain in the Care of a Patient

1.1. Business Interests

1.1.1. A registrant must not, directly or indirectly, enter into any business arrangement that may create a real or perceived conflict of interest with the registrant's duty to the patient.

1.1.2. A registrant must not have a direct or indirect interest in a health care business to which the registrant refers a patient or to which a patient may be expected to attend due to geographic proximity or necessity, unless the registrant satisfies the following conditions:

1.1.2.i. the terms on which the interest is offered to the registrant must not be related to the past or expected volume of referrals of patients or other business from the registrant to that facility;

1.1.2.ii. there must be no requirement that the registrant make referrals to the facility or otherwise generate professional business as a condition for investment or remaining as an investor;

1.1.2.iii. the financial return for the registrant must be directly attributable to the registrant's proportionate financial interest in the facility rather than to the volume of referrals made by that registrant.

1.2. Benefit for Service

1.2.1. A registrant must not seek or accept any payment or benefit, directly or indirectly, for any service rendered or product provided to a patient by any other registrant or person other than by a partner, associate, employee or locum of the registrant.

1.2.2. A benefit includes, but is not limited to:

1.2.2.i. any financial advantage;

1.2.2.ii. any good or service sought or received by the registrant.

1.3. Inducements

1.3.1. A registrant must not offer or cause any inducement to be offered or received by any person, including a patient of the registrant, in return for:

1.3.1.i. the referral of another person to the registrant or a clinic or group with which the registrant is associated, whether or not the referral is medically appropriate;

1.3.1.ii. the provision of any service or product, whether or not the provision of the service or product is medically appropriate.

1.3.2. Prohibited inducements within subsection 1 include, but are not limited to, offering or providing:

1.3.2.i. discount coupons or gift certificates for a product or service unless available to all;

1.3.2.ii. prizes of a product or service;

1.3.2.iii. gifts of a product or service;

1.3.2.iv. promotional gifts or other benefits for attendance of informational sessions about medical services not insured by Manitoba Health.

1.3.3. Despite subsection (2), a registrant may:

1.3.3.i. offer a reduced fee or charge to a specific patient for compassionate reasons;

1.3.3.ii. advertise that prices are subject to change without notice;

1.3.3.iii. provide free consultations for the purpose of informing and assessing the eligibility of a patient for an uninsured product or service.

1.4. Sale of Products

1.4.1. “Product” includes, but is not limited to, any product, device or appliance offered for the diagnosis, cure, alleviation or prevention of disease, disorders or injuries in a patient.

1.4.2. If a registrant offers products, other than prescription drugs, for sale to a

patient, the registrant must not sell the product at a price in excess of the fair market price paid by the registrant plus a reasonable handling cost.

1.4.3. A registrant who offers medical services by a website must clearly disclose on the website the registrant's financial interest in any product recommended or sold by the registrant.

1.4.4. If a registrant offers products for sale to a patient, the registrant must, at a minimum, create and maintain records detailing the following:

1.4.4.i. the actual cost of the product to the registrant, including any rebate or price reduction provided to the registrant;

1.4.4.ii. the name of the manufacturer and the supplier of the product;

1.4.4.iii. the date the product was supplied to the registrant;

1.4.4.iv. the expiry date of the product, if any;

1.4.4.v. any additional costs incurred by the registrant, including any formula or calculation used by the registrant to determine the additional cost added to the price of the product charged to the patient.

1.5. Job Action

1.5.1. A registrant must not withdraw services with the direct or indirect purpose of supporting job action for personal economic gain or in support of any political or economic principle if such actions could put the immediate health of patients at significant risk.

1.5.2. An entire group of registrants or an entire department must not withdraw services completely. A registrant must be available to provide for the care of seriously ill or emergency patients. Just as individual registrants cannot abandon their patients, groups of registrants cannot abandon their community.

1.6. Facilitating Adoptions

1.6.1. When discussing private adoption as an option for a patient, a registrant must refer the patient only to public or private agencies that deal with private adoption matters, such as Child & Family Services, Adoption Options, or others. A registrant must not engage in private referrals of his/her patients to prospective adoptive parents.

1.6.2. A registrant must not:

1.6.2.i. provide to a patient a profile or other documents indicating that an individual in the registrant's family (including extended family) or a friend or colleague wishes to adopt.

1.6.2.ii. otherwise facilitate the adoption of a patient's child by an individual in the registrant's family (including extended family) or a friend or colleague.

1.7. Disclosure

1.7.1. If a conflict of interest is unavoidable by a registrant, the registrant must:

1.7.1.i. make full, frank and timely disclosure of the conflict of interest to the patient;

1.7.1.ii. obtain the informed consent of the patient before providing any medical advice or treatment to the patient.

2. Relationship with Industry:

2.1. Patient Care

2.1.1. A registrant must always maintain professional autonomy and independence in any relationship with industry.

2.1.2. A registrant must not enter into a relationship with industry if it weakens the fiduciary relationship with any patient of that registrant.

2.1.3. A registrant must disclose to a patient any relationship between the registrant and industry that reasonably could be perceived as having the potential to influence the registrant's clinical judgment.

2.1.4. A registrant must resolve any conflict of interest resulting from interaction with industry in favour of his or her patients.

2.1.5. When considering the use of clinical evaluation packages such as samples of medications or devices a registrant must:

2.1.5.i. recognize the influence on the registrant's prescribing choices;

2.1.5.ii. use appropriate clinical evidence to determine the choice of medication or device;

2.1.5.iii. document the type and amount of medication or device in the patient record;

2.1.5.iv. not receive any form of material gain based on the choice of the product.

2.2. Research Activities

2.2.1. When a registrant participates in industry sponsored research activities the registrant must:

2.2.1.i. only participate in research activities that are ethically defensible, socially responsibility and scientifically valid;

2.2.1.ii. only participate in research activities that have been formally reviewed and approved by an appropriate ethics review body approved by Council;

2.2.1.iii. enroll patients in research activities only after full, informed, competent and voluntary consent of the patient or authorized agent;

2.2.1.iv. protect the patient's privacy in accordance with provisions of applicable legislation;

2.2.1.v. only accept remuneration that covers time and expenses at a reasonable rate;

2.2.1.vi. disclose to research subjects that the registrant will receive a fee for participation and the source and amount of that fee;

2.2.1.vii. when submitting and/or publishing information in any media, disclose any relationships with industry providing funding or other consideration for the research performed or the publication submitted;

2.2.1.viii. not enter into agreements that limit the registrant's right to publish or disclose results of the study or report adverse events that occur during the course of the study;

2.2.1.ix. only participate in industry sponsored surveillance studies that are scientifically valid and expected to contribute substantially to knowledge about the drug or device.

2.3. Continuing Professional Development Activities

2.3.1. A registrant involved in organizing or presenting at a continuing professional development event must:

2.3.1.i. disclose to participants any financial relationship with industry for products mentioned at the event or with manufacturers of competing products;

2.3.1.ii. not conduct a seminar or similar event directly or indirectly for industry that promotes a product for the purpose of enhancing the sale of that product;

2.3.1.iii. not accept reimbursement for expenses or honoraria at a rate that could reasonably be perceived as having undue influence.

2.3.2. A registrant must not claim authorship or contribution to the production of educational materials unless the registrant has substantially contributed to the material.

2.3.3. A registrant must ensure that all industry contributions are declared on educational materials.

2.3.4. A registrant attending a continuing professional development event must not accept reimbursement for expenses from industry unless they are in the employ of the industry or are directly involved in the presentation of the professional development activity.

2.4. Personal Benefit

2.4.1. A registrant must not accept any personal gift of any monetary or other value from industry, excepting only teaching aids provided by industry.

2.4.2. A registrant must not accept a fee or other consideration from industry in exchange for seeing an industry representative in a promotional or similar capacity.

2.5. Solicitation of Funds Using Patient Databases

2.5.1. Registrants must restrict the use of patient databases for solicitation of funds for charitable programs in accordance with the following conditions:

2.5.1.i. In an institutional setting, the only information about patients cared for at that institution which may be released for solicitation of funds is demographic, limited to name and address.

2.5.1.ii. No information about diagnosis may be released.

2.5.1.iii. The patient list must not be derived from a population which is usually regarded as sensitive, e.g. therapeutic abortion patients.

2.5.1.iv. Communication to individuals whose names have been extracted from databases:

2.5.1.iv.1. must not differ from the communication sent to other individuals who have not been patients in the relevant institution.

2.5.1.iv.2. must not refer to the patient's use of the registrant's services.

2.5.2. A treating registrant must not solicit funds for charitable programs directly from a patient within the context of a doctor/patient relationship.