



College of Physicians and Surgeons of British Columbia

# Practice Standard

## Advertising and Communication with the Public

<b>Effective:</b>	December 2009
<b>Last revised:</b>	October 5, 2017
<b>Version:</b>	5.0
<b>Next review:</b>	October 2020
<b>Related topic(s):</b>	<a href="#">Conflict of Interest</a> , <a href="#">Promotion and Sale of Products</a> , <a href="#">Sale and Dispensing of Drugs by Physicians</a> , <a href="#">Social Media</a>

A **practice standard** reflects the minimum standard of professional behaviour and ethical conduct on a specific topic or issue expected by the College of all physicians in British Columbia. Standards also reflect relevant legal requirements and are enforceable under the [Health Professions Act](#), RSBC 1996, c.183 (*HPA*) and College [Bylaws](#) under the *HPA*.

**Registrants may seek advice on these issues by contacting the College and asking to speak with a member of the registrar staff, or by seeking medical legal advice from the CMPA.**

## PREAMBLE

This document is a standard of the Board of the College of Physicians and Surgeons of British Columbia.

*Advertising* or an *advertisement* means any communication made orally, in print, through electronic media or via the internet by or on behalf of a registered practitioner to the public in general or to one or more individuals that has as its substantial purpose the promotion of the registered practitioner, or a clinic or group with which the registered practitioner is associated.

## COLLEGE'S POSITION

Physicians must ensure that professional advertising and public communication is accurate and truthful. This is a professional responsibility defined within the Canadian Medical Association's *Code of Ethics*, which the College has adopted. This standard is also guided by the College Bylaws made under the *Health Professions Act*, by court decisions and other legal precedents, by the *Canadian Code of Advertising Standards*, and by guidelines established by the Board.

In drafting the Bylaws and standards, the College is guided by the criteria set out by the Supreme Court of Canada in its 1990 decision of *Rocket v. Royal College of Dental Surgeons of Ontario*. The court held that professional advertising is permissible when it serves a legitimate purpose of providing the public with relevant information. However, regulatory bodies are able to adopt standards to maintain a high standard of professionalism and to protect the public from irresponsible and misleading advertising.

Physicians' professional services must not be advertised or offered in ways which might motivate the patient to consent to such services because no fee or a reduced fee is attached.

Similarly, physicians' services must not be presented in a way which might motivate the physician to provide a service to a patient who might otherwise be deemed to be unsuitable.

Any inducement, enticement or incentive to a patient may interfere with the patient's autonomy and with the physician's fiduciary responsibility. Issues which arise in the context of inappropriate enticements or incentives include the following:

- the potential of the patient's well-being being replaced by physician self-interest
- the creation of unnecessary patient risk and in some situations, patient harm
- the minimization of the risks inherent in medical interventions
- the clouding of the context in which patient's consent is sought or given
- the limiting by contract of physician access to essential patient information
- the potential violation of the patient's right to privacy
- the limitation of patient redress because of inappropriate waivers

Physicians, therefore, must not offer, or promote through referral, those medical services that generally might include, through advertising or promotion, the perception of coercion, inducement, enticement, or inappropriate incentive.

Based on the above ethical principles, the College has determined that physicians must not, as part of advertising or promotion, include:

- offers of prizes, gifts, gift certificates, card points, bonus points, discounts or time-limited benefits for medical services, or inducements, including alcoholic refreshments, for attendance at informational sessions promoting medical interventions, cosmetic or otherwise

“Before and after” photos are permitted provided that physicians have obtained written consent from each patient to permit the use of their photographs in physician advertisements, which are available in the public domain. This consent must be available for the College to verify, if requested.

If a physician uses photographs of models in his/her advertisements and those models have not received the services advertised by the physician, a disclaimer to this effect must be included in the advertisement.

Physicians may advertise and provide no-charge consultations to assess a patient’s suitability for and to provide information about cosmetic procedures.

Physicians must be cautious when establishing business alliances that might limit their own control on the advertisement and promotion of their services. Physicians are responsible for advertising content prepared by an advertising agency or third party.

If there is any doubt or question about the appropriateness of a proposed advertisement, physicians are advised to seek input from the College. The College does not pre-approve or endorse any advertisements or public communications.

Physicians who advertise services to the public must be aware of federal regulations regarding product advertising and may wish to review the Regulatory Requirements for Advertising section found on Health Canada’s website (<http://www.hc-sc.gc.ca/dhp-mps/advert-publicit/index-eng.php>) to ensure compliance with federal law.

## GUIDING LEGISLATION

### Bylaws

Part 7 of the [Bylaws](#) made under the *Health Professions Act*, states the following:

#### *Use of names*

- 7-1 (1) Without first obtaining the written consent of the registrar,
- a registrant must not carry on the practice of medicine except in his or her own proper name,
  - a registrant must not use or permit his or her name to be used in connection with a commercial enterprise relating to the practice of medicine, and
  - an association of two or more registrants who practise through a medical corporation must not carry on the practice of medicine except in the proper names of one or more of the members of the association.

#### *General communication*

- 7-2 (1) A registrant must not, when publishing or communicating any information about his or her practice or qualifications, whether orally, in print or through electronic media

- (a) exaggerate or make statements that are false, inaccurate, misleading or reasonably capable of being misinterpreted,
- (b) make statements that are offensive, flamboyant, not in good taste or contrary to the interest of the public or the honour and dignity of the profession,
- (c) imply that he or she can obtain results from treatment not achievable by other registrants or create an unjustified expectation about his or her treatment,
- (d) compare or contrast the quality of his or her services with those provided by another registrant or denigrate the services of another registrant,
- (e) contravene the standards of professional ethics or standards of practice, or
- (f) otherwise conduct himself or herself unprofessionally.

#### *Public statements*

- 7-3 (1) A registrant who makes public statements on medical matters must conform to the relevant provisions of the standards of professional ethics and standards of practice.
- (2) Unless authorized, a registrant must not speak or purport to speak on behalf of any medically related body or organization.
- (3) A registrant speaking as an individual must make it clear that the views expressed are his or her own and do not necessarily represent those held by his or her colleagues or any association.

#### *Promotional activities*

- 7-4 (1) A registrant may advertise his or her professional services in a directory listing or through a professional advertisement, providing
- (a) the content is factual, and
  - (b) the content assists patients in making informed choices about their health and well-being.
- (2) Advertising must not
- (a) contain false or misleading statements, or
  - (b) include any statements about professional or facility superiority.
- (3) A registrant must not identify himself or herself as a specialist unless he or she has certification from the RCPSC or equivalent accrediting body approved by the board and must not use the term “surgeon” in advertising for cosmetic procedures unless he or she is a specialist in a relevant surgical discipline.
- (4) No one other than a registrant who is a certificant or fellow of the RCPSC or who has completed postgraduate training in his or her specialty satisfactory to the registration committee, may indicate on his or her letterhead or office door or otherwise represent himself or herself as holding such specialist qualifications.
- (5) A registrant may refer to having a special interest in an area of medicine but when doing so must

- (a) state whether he or she is a general practitioner or a specialist,
  - (b) if the registrant is a specialist, state his or her RCPSC certification or equivalent as approved by the board, and
  - (c) provide information to assist patients' understanding of his or her qualifications so that patients may make informed choices about their health or well-being.
- (6) Any communication, advertisement or publicity distributed on behalf of a registrant, partnership, group or professional association must include the name of at least one registrant who is responsible for the content.
- (7) A registrant who produces, writes, edits or pays for a professional advertisement is considered responsible and accountable for the content.
- (8) Signs placed or erected at or about a registrant's office location must comply with sections 7-4(1) to (7) and, without limitation,
- (a) office location may be indicated by a sign of a nature and size to allow identification by a member of the public, but must not constitute soliciting or importuning,
  - (b) such information may include
    - (i) the name of the registrant practising at a location,
    - (ii) a name with respect to which consent has been granted under section 7-1,
    - (iii) the special interest in an area or practice limitation of a registrant (subject also to section 7-4(5)),
    - (iv) office hours,
    - (v) whether an appointment is necessary, and
    - (vi) languages spoken by the registrant, and
  - (c) factual information which might assist a member of the public to select a registrant may be placed at or about the entrance.