



College of Physicians and Surgeons of British Columbia

# Practice Standard

## Medical Certificates and Other Third Party Reports

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<b>Related topic(s):</b>	<a href="#">Independent Medical Exams</a> , <a href="#">Medical Records</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 Physician and Surgeons of British Columbia. It also offers some broader guidance on this issue, which physicians should consider before they provide medical certificates or reports to patients who may use these documents to obtain workplace accommodation or insurance benefits from employers or other third parties. Such requests may originate from government departments or agencies (e.g. WorkSafeBC), private non-governmental sectors such as lawyers, the Insurance Corporation of British Columbia, and other insurance and disability carriers.

This document must be read in conjunction with [Independent Medical Examinations](#).

## COLLEGE'S POSITION

Physicians are ethically and legally obliged to provide reports on patients they have attended, even when they have not seen them for some time and are unable to provide a current report.

Physicians are frequently asked to provide medical certificates for a patient's employer or another third party such as a disability insurer. When a request has been received, the physician is required to respond in a timely manner, with objective medical information in spite of pressures to advocate on behalf of the patient. The physician is expected to differentiate between objective medical information and opinion.

**Physicians must recognize that employers and their insurers will be relying on the information provided to them by the physician in making a number of decisions concerning financial and other entitlements.**

Physicians may be subpoenaed as witnesses, required to produce clinical notes and examined and cross-examined under oath about the information already provided by them in medical certificates or other forms.

Physicians should also be aware that if they provide misinformation, or erroneous or unfounded opinions, employers and insurers who have relied on such representations may have claims for damages against the physician.

The College may consider the provision of untruthful information or inappropriate delay in producing medical certificates or reports as professional misconduct.

The following guidelines are suggested:

- Physicians should ensure that they have received the patient's valid and documented consent to provide any information to an employer or other third party. Consent should include discussion about the scope, purpose and likely consequences of the disclosure of their personal health information and the fact that relevant information cannot be concealed or withheld.
- Because it may be difficult to confirm what information was provided to an employer or other third party in a verbal or telephone conversation, physicians are advised to avoid verbal communication unless the patient is party to that conversation.
- Statements made should be truthful and based upon objective clinical information about the patient and not simply a repetition of the patient's self-diagnosis.
- Medical information should be presented in a clear and factual manner, with opinions that are supported by objective medical evidence.

- Conjecture, speculation and inappropriate advocacy in medical certificates or reports should be avoided.
- Physicians should provide medical certificates or reports in a reasonable timeframe; this is usually considered to be within 30 business days of the request but may in some situations be shorter.
- If they are unable to respond within a reasonable timeframe, physicians should communicate directly with the third party and negotiate a new timeframe, or provide the reasons why they cannot comply.
- If a patient was not seen during a period of disability or illness, an opinion about retrospective diagnosis may be provided but the fact that the patient was not seen during that period should be clearly stated.
- Before giving an opinion on a patient's fitness to perform a specific activity or job, physicians should ensure that they have accurate information about the activity or the requirements of that job.
- Physicians should not disclose more information than is covered by the patient's consent or requested by the third party.
- Fees should be discussed with the requesting third party in advance of the report preparation. Fees charged should be fair and reasonable—reflecting the work required—and consistent with the Doctors of BC *Guide to Fees* for non-insured medical services.
- Physicians may request, but they must not demand, payment in advance for their professional services. A report cannot be withheld contingent on pre-payment.
- Fee disputes between physicians and lawyers can be referred to the Medical-Legal Liaison Committee of Doctors of BC.

## GUIDING ETHICAL PRINCIPLES

### **CMA Code of Ethics**

#### *Responsibilities to the Patient*

16. In determining professional fees to patients for non-insured services, consider both the nature of the service provided and the ability of the patient to pay, and be prepared to discuss the fee with the patient.
31. Protect the personal health information of your patients.
32. Provide information reasonable in the circumstances to patients about the reasons for the collection, use and disclosure of their personal health information.
33. Be aware of your patient's rights with respect to the collection, use, disclosure and access to their personal health information; ensure that such information is recorded accurately.
35. Disclose your patients' personal health information to third parties only with their consent, or as provided for by law, such as when the maintenance of confidentiality would result in a significant risk or substantial harm to others or, in the case of incompetent patients, to the patients themselves. In such cases take all reasonable steps to inform the patients that the usual requirements for confidentiality will be breached.

## RESOURCES

For more information, go to:

The Canadian Medical Protective Association

- [Privacy and Confidentiality](#)
- [Medical Legal Handbook](#)