OMA Ontario Medical Association

Ontario Medical Association Submission

CPSO *Professional Behavior*; *Physician Treatment of Self, Family Members or Others Close to Them*; *Consent to Treatment* Policies and *Principles of Medical Professionalism* Guidance Document

February 2024

The OMA appreciates the opportunity to provide comments on the CPSO's draft *Professional Behavior, Physician Treatment of Self, Family Members or Others Close to Them*, and *Consent to Treatment* Policies, and the *Principles of Medical Professionalism* Guidance Document. OMA staff have conducted a review of the policies and consulted broadly with membership through several channels. The feedback received is summarized below.

Professional Behavior Policy – Final Consultation

General Comments

The OMA appreciates the efforts by the College to reframe the policy to take a more supportive approach as recommended within our submission on the preliminary consultation on this policy. This includes changes such as rewording the term "disruptive" to "unprofessional", as well as the addition of questions to the Advice document that recognize and address the factors that can result in unprofessional behavior and ways in which physicians can access support. These are important changes that consider the root causes of unprofessional behavior and will help to address the issue in a more constructive, rather than punitive, manner.

Specific comments

General: In this section, to clarify the scope of the policy, the term "professional context" is defined, which "includes any situation where a physician publicly identified as a physician and/or is representing the profession (e.g. public appearances, printed media, and social media)." The requirements here, particularly around social media, should be more clearly defined so physicians are able to understand the scope of the policy and their expectations under it.

For example, a physician may not explicitly state their profession on social media but be generally well-known as a physician. If this physician contravened the policy through their use of social media would this fall within the scope of the policy and be considered unprofessional? Given that the definition of professional context as outlined within the draft is broad, specific examples such as this one should be considered by the college and outlined within the Advice document.

On that note, the inclusion of social media within the definition of the professional context provides an opportunity to remind and educate physicians about their responsibilities regarding social media use. This is increasingly important in light of current events and the significant and increased use of social media to express opinions by the general public (including physicians). The OMA would be happy to collaborate with the CPSO on this important issue and welcomes further dialogue on this.

Provision 6: It is stated here that "physicians must take appropriate action when staff they have responsibility for demonstrate unprofessional behavior in the workplace". While this recommendation is a positive step towards addressing unprofessional behavior, this provision implies that the professional standing of physicians would be impacted by the action of their employees which is of concern. While physicians are generally legally responsible for the actions of their employees under employment law, this should not impact their professional standing. Accordingly, greater clarity regarding what exactly is expected of physicians under this requirement should be provided and examples outlining what exactly "action" entails should be outlined within the Advice document.

Provision 7: It is stated here that "physicians, especially those in leadership positions in workplaces must contribute to providing a safe and supportive environment that allows staff to report unprofessional behavior." Similarly, to provision 6, this is an important requirement, yet lacking in detail. The CPSO should provide greater clarity here regarding how physicians can assist in providing a safe and supportive environment and further examples should be outlined in the Advice document.

Physician Treatment of Self, Family Members, or Others Close to Them – Preliminary Consultation

The OMA does not have any feedback on the *Physician Treatment of Self, Family Members, or Others Close to Them* policy at this time. We look forward to reviewing and providing feedback on future iterations of the policy.

Consent to Treatment – Preliminary Consultation

General Comments

OMA members have voiced that CPSO's *Consent to Treatment* policy contains clear and reasonable requirements in terms of physician obligations to obtaining consent prior to providing treatment.

Specific Comments

While physicians currently are *advise*d to consider and address language and/or communication issues that may impede a patient's ability to give valid consent, physicians consulted by the OMA felt that a *requirement* to do so would be in line with everyday practice. It would therefore be commensurate with current practice to transition from advised to required.

Physicians recognize that cultural differences can affect how patients make decisions about their treatment, and how family members are involved in decision-making for a competent patient. The OMA recommends the CPSO to provide guidance that addresses physicians' obligations specifically regarding cultural dynamics in consent and decision-making processes.

While physicians currently are *advised* to obtain express consent in certain circumstances, physicians consulted reported that they treat obtaining express consent in nearly all circumstances as a *requirement*, and it would therefore be in line with current practice to transition from *advised* to *required*. They also reported that hospital policy usually dictates that providers are required to obtain express consent.

Principles of Medical Professionalism: Guiding Values and Duties – General Consultation

General Comments

The OMA appreciates the intent of this resource in articulating expectations for medical professionalism and outlining core duties and values of medical practice. The feedback we have received from members is mixed. Some believe that the document is relevant and meaningful and see it as reflective of how physicians deliver care in practice. Others have raised several concerns regarding the section on recognizing and honouring humanity.

A general sentiment is that terms need to be appropriately defined. In many instances, simpler and more precise language coupled with examples would be more effective. Additionally, it is important that

physicians have access to appropriate training on the core duties outlined. It is uncertain who is responsible for educating physicians around concepts such as intersectionality, allyship and trauma-informed approaches.

The OMA supports the CPSO's recognition of the fact that physicians and other care providers need care and compassion to provide effective and sustainable care. While we agree that it is very important that physicians take time away from work, demonstrate self-compassion, and ask for help from colleagues when needed, in practice physicians face many barriers to do so. Because of physician shortages in certain areas, high patient volumes and shortages of other providers, physicians are often unable to take needed time away from work. On the contrary, when other staff leave or take time away, this leaves physicians to do more work. In many situations, physicians may in fact ask for help, but their requests for extra resources may go unmet, due to recruitment, funding or other system challenges.

This resource puts the onus on the physician to ensure their own wellbeing. While physicians have a role, placing the onus of preventing burnout on physicians has not been shown to be effective. Causes of burnout are rooted, in large part, in the healthcare system, not in the individual behavior of physicians. The main barriers to physician wellbeing are unsustainable workloads, excess administrative tasks and feelings of loss of control and respect. These issues are outside the control of the physicians, and stating otherwise sends the wrong message. Health care organizations must undertake fundamental steps to improve the work environment, including finding ways to reduce workload, enabling physicians to take time away, improve work efficiency and maximize teamwork. The OMA recommends the CPSO to review this guidance document within the context of a resource constrained health care system and recognize the responsibilities of not only physicians, but the health system and actors within it.

Specific Comments

Regarding the section on recognizing and honouring humanity, the OMA acknowledges that many patients experience structural barriers as well as individual instances of bias and discrimination accessing the health-care system, which must be addressed to improve care for all Ontarians. We believe it is important to acknowledge that while physicians strive to provide care that is mindful of inequities, social determinants of health, and biases, there are numerous structural barriers that create these inequities, and they require system-level action. It is important to acknowledge this and ensure that there are reasonable expectations of what physicians can and cannot change, and an explicit acknowledgement of that would help physicians understand their specific role in honouring humanity in their care interactions. Concurrently, in setting these expectations, it should also be considered that physicians themselves may have their own challenges with respect to discrimination, e.g. they may have been subjected to racially or ethnically offensive remarks from patients or colleagues.

The resource states on page 4-5 that physicians honour the humanity of patients by "recognizing the unique experiences, opportunities, and barriers created by each person's intersecting social identities (i.e., race, ethnicity, gender, sexual orientation, class, and/or religion)"

- The OMA recommends that the CPSO rephrases this statement entirely to clarify expectations. There are several reasons why it may be difficult for physicians to recognize the unique experiences, opportunities and barriers of patients. Physicians may spend a very short time with a patient, and thus not have the ability to recognize the unique situation of the patient during that short time frame. The experiences of the patient may not be evident during the patient-physician encounter or may not be communicated by the patient, in either indirect or direct ways. It is not clear whether the CPSO is requiring physicians to ask patients about their unique

experiences, opportunities, and barriers. This may not be an appropriate question. It is very possible that if patients are asked about their unique situation, including, for example, their religion or sexual orientation, this would make patients feel uncomfortable.
- The OMA recommends that the statement instead focuses on requiring physicians to recognize the unique experiences, opportunities and barriers when brought to the attention of the physician or as the physician is aware.

The resource asks physicians on page 5 to "Where possible, striving to address the discrimination faced by patients from marginalized and underrepresented populations."

- Physicians recognize that patients experience structural barriers, individual instances of bias and discrimination accessing the health-care system.
- However, the requirement proposed by the CPSO leaves uncertainty on how physicians would strive to address discrimination in practice. The OMA asks that requirements are outlined so that they are achievable for physicians. Doing so requires specific language and examples within the context of medical practice. The OMA also notes that all individuals or groups can face discrimination – not only those that are marginalized. Finally, we note that the term "underrepresented population" should be defined, it is unclear which populations are referred to and in which context they are underrepresented.

Regarding the following requirement "Physicians honour the humanity of the public by: Bringing an intersectional lens to their daily processes and practice and committing to allyship and striving to address discrimination and oppression in health care."

- The OMA recommends the CPSO to clearly outline what the role of the physician is, what this would look like in practice in a health care environment, and how certain concepts and terms should be understood. It is important to recognize that many physicians have not received education that includes a focus on concepts such as intersectionality or the ways that discrimination and oppression can be experienced or exacerbated through the health care system. It would not be clear for many what is meant by "bringing an intersectional lens to daily processes," "committing to allyship," and "striving to address oppression" in the practice of their care. Without clear definitions relating these terms to a medical professional context, the terms could be misinterpreted and misunderstood. To some, these terms have political connotations, suggest aligning with certain political viewpoints, and without proper definitions they lend themselves to misinterpretation. While we recognize that there is clear evidence of discrimination and oppression in the health system, and physicians play a significant role in addressing these issues, expectations of physicians need to be clear and achievable in practice.

The OMA appreciates the opportunity to provide feedback on the policies and the guidance document. Please contact us if you have questions or require additional feedback.