

November 7, 2025

Via email: consultations@cpsso.on.ca

Dr. Nancy Whitmore
Registrar
College of Physicians and Surgeons of Ontario
80 College Street
Toronto, ON M5G 2E2

Dear Nancy,

Re: Consultations on the *Maintaining Appropriate Boundaries and Delegation of Controlled Acts* Policies and Advice documents

The Canadian Medical Protective Association (CMPA) appreciates the opportunity to provide feedback regarding the College's consultations on its draft Policies and Advice documents regarding *Maintaining Appropriate Boundaries and Delegation of Controlled Acts*.

As you know, the CMPA delivers efficient, high-quality physician-to-physician advice and assistance in medico-legal matters, including the provision of appropriate compensation to patients injured by negligent medical care. Our evidence-based products and services enhance the safety of medical care, reducing unnecessary harm and costs. As Canada's largest physician organization and with the support of our over 117,000 physician members, the CMPA collaborates, advocates and effects positive change on important healthcare and medico-legal issues.

The CMPA's comments focus on the following:

Maintaining Appropriate Boundaries:

- Retaining the reference, within the body of the Policy, to the mandatory duty to report sexual abuse of a patient by a colleague;
- Retaining in the Advice document guidance on what constitutes "reasonable grounds" to believe that a regulated professional has committed sexual abuse of a patient;
- Maintaining the guidance on documenting the presence of a third party; and
- Recognizing local realities, particularly in small communities, in relation to the prohibition on hiring patients as staff members.

Delegation of Controlled Acts:

- Ensuring all healthcare professionals maintain their own independent and adequate liability protection.

Maintaining Appropriate Boundaries

Reporting obligation

The CMPA recommends retaining, within the body of the Policy, the existing section addressing the mandatory duty to report another regulated health professional who may have sexually abused a patient. As currently drafted, the revised Policy would refer to this duty only in a footnote, which risks being overlooked by physicians.

While the CPSO's *Guide to Legal Reporting Requirements* also addresses reporting sexual abuse by a colleague, the prominence of clear expectations within the Policy itself is important given the significance of this obligation.

We also recommend retaining in the Advice document guidance on what constitutes "reasonable grounds" to believe that a regulated professional has committed sexual abuse of a patient. The current Advice document provides practical and valuable direction on this point, and in our experience, physicians frequently seek clarity on the interpretation of that term.

Documenting the presence of a third party

It would be helpful if the draft Advice document retained the guidance on documenting the presence of a third party, whether the third party was arranged by the physician or the patient, and when the presence of a third party was declined. The current Advice document provides useful guidance on these points. Clear documentation of this information can be important if questions later arise about the appropriateness of an intimate examination.

Non-sexual boundary violation

Clarification would be helpful concerning the statement in the draft Advice document that hiring a current patient as a staff member could constitute a non-sexual boundary violation.

The draft Advice document acknowledges that interactions within the same social network are not necessarily prohibited, but it does not offer similar flexibility for business relationships. It would be helpful for the Advice Document to recognize that, particularly in small communities, patient and business relationships may intersect. A blanket prohibition on hiring patients as staff may otherwise unduly constrain recruitment of personnel, notwithstanding local realities.

Delegation of Controlled Acts

It would be helpful if the College included a statement in the draft *Delegation of Controlled Acts* Policy encouraging physicians to ensure that all regulated and unregulated health professionals working with supervising physicians, or alongside non-supervising physicians, maintain their own independent and adequate liability protection.

Such a statement serves two main objectives: it helps ensure that patients and/or families are adequately compensated in appropriate cases, and it provides reassurance to members of the healthcare team that they are protected in the event of a legal action. Indeed, the risks posed by joint and several liability are heightened under a collaborative care model. When more than one party is responsible for having caused injury to a plaintiff, joint and several liability permits the

plaintiff to recover the full amount from the defendant best able to pay, even if that amount is out of proportion to that defendant's degree of liability.

We trust the above comments will be of assistance to the College in finalizing the draft *Maintaining Appropriate Boundaries* and *Delegation of Controlled Acts* Policies and Advice documents.

Yours sincerely,

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Lisa Calder, MD, MSc, FRCPC
Chief Executive Officer

LAC/ml

cc. Dr. B. Singh