



FAIR Association of Victims for Accident Insurance Reform

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FAIR Submission to CPSO Conflicts of Interest and Industry Relationships

Sent by email to: industry@cpso.on.ca

FAIR Association of Victims for Accident Insurance Reform is a grass-roots, not-for-profit organization of car accident survivors and their supporters. Thank you for the opportunity to present our views to the College of Physicians and Surgeons of Ontario in respect to your Draft policy on Conflicts of Interest and Industry Relationships.

Not mentioned in this policy consultation is the latest evolution in healthcare - the expansion of Ontario's for-profit surgical clinics and the out-sourcing of care. Ontario's medical assessment (IME) companies are also evolving in ways that potentially cause harm to patients who are seeking rehabilitation/treatments funded by their auto insurer from privately or publicly traded profit oriented medical assessment companies whose sole income is derived from insurers.

We want to point out that Ontario's injured car crash survivors have been dealing with the conflicts of interests of CPSO members in third-party relationships with private insurance companies for many years. We have seen very little action to stop the harm this private relationship has caused for these vulnerable patients and the current definition of conflict on page 6 of the on-line survey suggests that the current conflict of interest guideline is being followed. It isn't. Making the definition of conflict shorter and less concise isn't a path forward, it is simply less detail and the removal of the word 'industry' demotes the importance and potential dangers of industry involvement in patient care.

Conflict of Interest Definition - The current definition of conflict of interest is as follows:

A conflict of interest is created any time a reasonable person could perceive that a physician's personal interest or relationship with industry is at odds with their professional responsibilities. In this policy, the term "conflict of interest" is defined broadly and in accordance with the definition above. While sections 15-17 of Ontario Regulation 114/94 under the Medicine Act, 1991 describe some specific situations that constitute conflicts of interest, this policy is not limited in its scope to those specific situations.

The new draft definition is as follows: A conflict of interest is created any time a reasonable person could perceive that a physician's judgments or decisions about a primary interest (e.g., the patient's best interests, unbiased medical research) are compromised by a secondary interest (e.g., direct financial gain, professional advancement). (page 6 <https://policyconsult.cpso.on.ca/wp-content/uploads/2022/12/Industry-General-Consult-Survey.pdf>)

We'd ask why Ontario's auto insurers and Long Term Disability (LTD) insurers are not specifically mentioned in General Expectations – this is not a new area of conflict. The 'additional expectation' suggests that once the conflict has been mentioned that no further action need be taken, in other words, now you know and that's where the obligation ends. It's not enough to disclose, specific action often needs to be taken.

New General Expectations

The draft policy includes new expectations which apply to physicians' interactions with industry generally.

One new expectation is as follows: Physicians must fulfil their fiduciary duties to their patients by acting in good faith and in the patient's best interest when resolving conflicts of interest. This expectation is based on the fact that the physician-patient relationship is a fiduciary relationship. In this relationship, the balance of knowledge and information favours the physician, so that patients are reliant on their physicians and may be vulnerable. Patients rely on and must be confident that the physician has put the needs of the patient first.

An additional expectation is as follows:

Physicians must be transparent and proactively disclose conflicts of interest and details of their interactions with industry to the relevant parties (e.g., patients, research participants, institutions) where they may be reasonably perceived to influence the physician's judgment. (page 10 <https://policyconsult.cpsso.on.ca/wp-content/uploads/2022/12/Industry-General-Consult-Survey.pdf>)

We would like to see emphasis on how to inform patients about conflicts with a mind to acknowledging these are patients who might not be fully cognizant at the time of the interaction with a College member. Potential conflicts should be put in writing. This document suggests physicians would “*identify situations or circumstances that are, may reasonably be perceived to be, or may lead to, a conflict of interest and avoid or appropriately manage them*” but isn't that leaving the door open for mistakes and omissions to be made? There should be greater detail around what the College expects and specific outcomes if guidance is ignored.

Consumers and patients rely on Ontario's various Regulators, including CPSO to foster and maintain the integrity of their healthcare. The importance of this in respect to health outcomes could not be more important to the public at large. The expectations set out in this Draft policy are not clear and there is no suggestion of any action the College might take if these expectations are not met so it is not possible to ascertain whether these suggestions are 'reasonable'. We hope that further discussion, given the government's new healthcare delivery plans, will happen. Ontario's new direction will put more regulatory pressure on CPSO likely not considered in this Draft and our members and all vulnerable patients will now have to address 'should I go to my doctors' or my insurers' for profit clinic for the best possible care?' in the future.

Thank you again for the opportunity to be heard.

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