

POLICY

# Virtual Care

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<b>Approved by Council:</b>	September 2010
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**PREAMBLE**

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The College of Physicians and Surgeons of Saskatchewan (“CPSS” or the “College”) recognizes that virtual care plays an important role in the access to and provision of medical care to Saskatchewan patients, particularly those in rural and remote settings or those who may experience challenges in accessing in-person care. However, there are risks and limitations in providing care by virtual means. Physicians are expected to exercise their professional judgement in determining the appropriateness of virtual care given the patient’s circumstances and condition.

This policy sets out the College’s expectations for physicians who provide virtual care to Saskatchewan patients.

**POLICY**

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**1. Definition of Virtual Care – What constitutes the practice of medicine in Saskatchewan**

**Virtual care:** Virtual care means the provision of care (including synchronous and asynchronous) by means of electronic communication (telephone, video, email, text, or other internet hosted service or app) where the patient and the physician are at different locations, including but not limited to interviewing, examining, advising, diagnosing and/or treating the patient.

**WHAT CONSTITUTES THE PRACTICE OF MEDICINE IN SASKATCHEWAN?**

Based upon the College’s interpretation of **The Medical Profession Act, 1981**, the College accepts that:

- the practice of virtual care is the practice of medicine in Saskatchewan;
- a physician who is physically located in Saskatchewan, but who provides virtual care services to patients located outside of Saskatchewan, is practising medicine in Saskatchewan; and
- a physician who is physically located outside Saskatchewan, but who provides virtual care services to patients located in Saskatchewan, is practising medicine in Saskatchewan.

## 2. Licensure to practise medicine in Saskatchewan

The College accepts that a physician who practises virtual care as defined above is practising medicine in Saskatchewan and is required by **The Medical Profession Act, 1981** to be licensed with the College of Physicians and Surgeons to do so. More specifically, based upon the College's interpretation of **The Medical Profession Act, 1981**, the College accepts that:

- a physician who is physically located in Saskatchewan, but who provides virtual care services to patients located outside of Saskatchewan, is required by **The Medical Profession Act, 1981** to be licensed with the College of Physicians and Surgeons to do so; and
- a physician who is physically located outside Saskatchewan, but who provides virtual care services to patients located in Saskatchewan, is required by **The Medical Profession Act, 1981** to be licensed with the College of Physicians and Surgeons to do so, unless there is an exception which does not require them to be licensed.

The College accepts that an expedited form of licensure should be available to physicians who are fully-qualified physicians, who meet the criteria for full registration in Saskatchewan, who are licensed without restrictions in another province and who only practise virtual care in Saskatchewan.

Such physicians will be required to meet the same requirements for CMPA membership or other insurance coverage as apply to other physicians licensed to practise in Saskatchewan.

The College offers a virtual care licence to physicians who only practise medicine in Saskatchewan by virtual care. The cost of such a licence is dependent on the number of virtual care services that are provided by the physician. The licence is offered at no cost to physicians who will limit their practice of virtual care to no more than twelve Saskatchewan patients per year. A licence is offered at a reduced cost for physicians who will limit their practice of virtual care to no more than fifty-two Saskatchewan patients per year.

### EXCEPTIONS FROM THE REQUIREMENT TO BE LICENSED

**The Medical Profession Act, 1981** states that a person need not be a licensed Saskatchewan physician to do any of the following:

- (a) provide virtual care services in an emergency situation;
- (b) provide treatment in consultation with a Saskatchewan physician who has an ongoing relationship with the patient and who has agreed to supervise the patient's treatment, including use of any prescribed medication; and,
- (c) provide services without any form of compensation.

Therefore, the College cannot require a physician who only provides these services to be licensed in Saskatchewan.

In addition, the College has exempted physicians from the requirement that they be licensed in Saskatchewan if they only provide follow-up care to patients who the physician has seen in the physician's home province, under the conditions established by Regulatory Bylaw 2.11(d).

### 3. Saskatchewan-licensed physicians who practise virtual care outside Saskatchewan

The College recognizes that a Canadian regulatory authority may, or may not, require physicians to become licensed in their provinces or territories in order to practise virtual care with patients located in that province.

The College expects physicians who it licenses to meet the licensing requirements of another province or territory, if any, in order to practise virtual care with patients in that province or territory.

The College considers it unprofessional conduct for a physician to provide virtual care services in another province or territory unless the physician meets the licensing requirements of that province or territory.

### 4. Ethical, professional and legal obligations

The use of virtual care does not alter the ethical, professional and legal obligations of physicians. The standard of care provided by physicians to patients remains unchanged, whether it is delivered in person or by virtual means. Physicians who use virtual care must comply with relevant federal legislation and the legislation in their province/territory of licensure, in addition to those in the jurisdiction where the patient is located.

Compliance with legal and current regulatory policies and guidance is also expected, including but not limited to the following:

- (a) professionalism and ethical conduct;
- (b) licensure;
- (c) the establishment of a patient-physician relationship;
- (d) informed consent (including consent as related to virtual care technologies and privacy issues, as well as assessment and treatment);
- (e) privacy, confidentiality and security of patient information, including the collection, use or disclosure of this information;
- (f) the appropriateness of the use of virtual care;
- (g) medical records;
- (h) prescribing issues;
- (i) follow up with patients and ensuring continuity of care;
- (j) referrals and consultations;
- (k) charging for insured and uninsured services;
- (l) conflict of interest;
- (m) expectations of ongoing competence, including as it applies to current and evolving technologies used in virtual care;
- (n) advertising and communication with the public, as well as the sale of goods and services; and
- (o) photographic, video and audio recording of patients.

## 5. Standards of practice of virtual care

### 1. Providing good medical care

Physicians are expected to provide all elements of good medical care, as required. The standard of care expected is the same whether the patient is seen in person or by virtual means. Physicians who seek to use virtual care to provide medical services to patients should first ensure that they have a physical clinic, or a prior formal arrangement with a physical clinic, within reasonable travel proximity of the patient, to see them in person so as to fulfil the need for in-person care when appropriate or required, or if requested by the patient.

Furthermore, referring a patient to another healthcare facility, a walk-in clinic, or the urgent care or emergency department in non-urgent or non-emergent circumstances in lieu of arranging an in person assessment is not appropriate care. A blended care model balancing in-person and virtual care is strongly recommended if providing virtual care.

In addition, physicians are expected to consult with the appropriate medical regulatory authorities (MRAs) (i.e., where both they and the patient are located) and the Canadian Medical Protective Association (CMPA), or other applicable insurance carrier or liability protection provider, for unique situations that include, but are not limited to, the provision of virtual care such as: when either the physicians or patients are temporarily outside of Canada; medical assistance in dying; and involuntary psychiatric assessment.

### 2. Establishing the patient-physician relationship

Providing virtual care establishes a patient-physician relationship. In addition, physicians:

- (a) are expected to ensure they have sufficient knowledge, skill, judgment, and competency (including technological) to manage patient care through virtual means;
- (b) should ensure they adhere to best practices for confidentiality and security, and have a suitable platform and infrastructure to engage in virtual care;
- (c) are expected to disclose their identity, location, contact information and licensure status to the patient, especially if there is not a pre-existing relationship, and ensure that the identities of all other participants involved in the virtual care encounter are disclosed to and approved by the patient, as well as documented in the patient record;
- (d) must take appropriate steps to confirm the identity and location of the patient;
- (e) must ask the patient if the physical setting is appropriate, safe, private and secure given the context of the encounter, and ensure their consent to proceed;
- (f) should explain in plain language the appropriateness and limitations of medical services provided by virtual care;
- (g) must obtain, document and maintain all aspects of informed patient consent in a virtual care encounter;
- (h) must use their clinical judgement to determine whether virtual care is appropriate;
- (i) should offer and arrange for the option of in-person evaluation and care, if it is the patient's preference;

- (j) must ensure there is a plan in place to manage adverse events and/or emergencies and make patients aware of appropriate steps to take in these instances;
- (k) must document the rationale for referring a patient to another healthcare facility, a walk-in clinic, or the urgent care or emergency department; and
- (l) have the same obligations to their patients, including appropriate follow up with relevant providers, with documentation, on behalf of their patients.

### **3. Referral expectations**

Physicians must also ensure that patients referred to consulting specialists are appropriately investigated and treated before referral. Furthermore, if an assessment of the patient's presentation requires a physical examination before referral, the referring physician must ensure that one is undertaken unless doing so would unduly delay care. It is unacceptable to defer such a physical assessment to the specialist unless agreed to in advance by the consulting specialist.

### **4. Medical Records and the privacy, confidentiality, security of and access to patient information**

Physicians are required to create and maintain a medical record as part of the provision of care in a virtual care encounter. The requirement to create such a record is the same whether the care is provided in person or remotely. As such, physicians are expected to comply with jurisdictional requirements for the privacy, confidentiality and security of patient information including, but not limited to:

- (a) medical record-keeping, including documentation, retention, access, transmission, archiving and retrieval;
- (b) ensuring patient access to their medical records; and
- (c) the availability of the medical record to other health care professionals for the necessary provision of patient care and follow up.

### **5. Assessing the appropriateness of the use of virtual care for each patient encounter**

Physicians using virtual care to provide medical services to patients are expected to use their professional judgement and:

- (a) use the most appropriate technology that is available and in the best interest of the patient;
- (b) assess patients' presenting condition and the appropriateness of virtual care to provide care and, if not appropriate, must recommend and offer an in-person assessment;
- (c) have the ability to provide a timely physical assessment of the patient or have a prior formal arrangement with a physical clinic, within reasonable travel proximity to the patient, where a regulated health professional is available to conduct an in-person assessment of the patient in a timely way; in exceptional circumstances if it is not possible for physicians to meet this standard, they must provide and document the reasons for this (e.g., patients in distant rural, remote, or institutional locations if this will hinder access to required care);
- (d) take reasonable steps to assess all available resources that may be required to provide medical services, including patient information, the technology, the presence of support staff (both where the physician is located and where the patient is located), linkages with other

- services (e.g., laboratory), etc., and proceed only if those resources are available, safe and secure, and can be used effectively and in a private manner;
- (e) pay additional attention to ensuring the patient understands the information exchanged and is not hindered by the technology; and
  - (f) when possible, adapt the technology for virtual care for patients who are deaf, hard of hearing, or visually impaired.

## 6. Prescribing practices

Physicians using virtual care to provide medical services to patients are expected to:

- (a) conduct an assessment in accordance with standards of care before prescribing or authorizing any drug, substance or device and only proceed if appropriate;
- (b) be aware of jurisdictional requirements and risk of patient harm pertaining to the prescribing of controlled substances and the authorization of cannabis for medical purposes.

Furthermore, it is expected that physicians will not initiate the prescription of opioids or other controlled medications to patients whom they have not examined in person, or with whom they do not have a longitudinal treating relationship, unless they are in direct communication with another regulated health professional who has examined the patient.

## 7. Current and emerging technologies (regulated and unregulated)

Various technologies, including those that incorporate artificial intelligence, may increasingly have a role in helping physicians manage patient care, including in a virtual environment. It is important, however, that physicians are competent with these technologies and use them to assist or augment clinical decision-making and not rely on them exclusively to make patient diagnoses or treatment recommendations. These technologies include those regulated by Health Canada<sup>1</sup> (such as medical devices, software and applications) and those that are not.

Furthermore, physicians:

- (a) are expected to have a general understanding of a patient's comfort level and access to these technologies before using and/or recommending them;
- (b) when using or recommending these technologies to patients in the context noted above, are expected to have in place the appropriate safeguards to ensure the privacy and security of patient information, as previously noted, and avoid conflicts of interest;
- (c) should take reasonable measures to ensure that their patients understand the risks (e.g., false negative rate) and limitations of unregulated technologies; and
- (d) should consult with other bodies that have endorsed and/or critically appraised unregulated technologies, such as professional associations or medical societies.

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<sup>1</sup> Health Canada defines medical devices and describes how they are licensed and regulated in Canada, including software and applications. <https://www.canada.ca/en/health-canada/corporate/about-health-canada/branches-agencies/health-products-food-branch/medical-devices-directorate.html>

## 8. Exceptional Circumstances

In exceptional circumstances if it is not possible for physicians to meet the expectations in this document, they must provide and document the reasons for this (e.g., patients in distant rural, remote, or institutional locations if this will hinder access to care). If safe for the patient, a physician providing care in a remote community may rely on a nurse practitioner or other duly qualified health care professional in the community to perform a physical assessment, or a specialist may rely upon a family doctor in a rural area to perform a physical assessment.

## 6. Complaint investigation

The College accepts the responsibility to investigate complaints about the conduct of physicians that it licenses who practise virtual care in another Canadian province or territory.

If a complaint is received about a physician who is registered in Saskatchewan, and in another province or territory, the College will discuss the investigation with the MRA in the other province or territory where the physician is registered, and will attempt to co-operate to allow the investigation to be primarily conducted by the most appropriate MRA. The Saskatchewan College will co-operate with the other regulatory body, including sharing the information from the investigation to the extent it is legally permissible to do so.

## 7. Seeking advice

If physicians have questions or concerns relating to virtual care, they may seek advice by contacting the College and asking to speak to a member of the Registrar's senior staff, or by contacting the CMPA.

## OTHER RELEVANT COLLEGE POLICIES, GUIDELINES & BYLAWS

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Physicians who provide virtual care should be aware of, and comply with, the following College Policies and Guidelines:

- (a) [Clinics That Provide Care to Patients Who Are Not Regular Patients of the Clinic](#)
- (b) [Complementary and Alternative Therapies](#)
- (c) [Conflict of Interest](#)
- (d) [Disclosure of Adverse Incidents](#)
- (e) [Ending a Patient-Physician Relationship](#)
- (f) [Establishing a Patient-Physician Relationship](#)
- (g) [Informed Consent and Determining Capacity to Consent](#)
- (h) [Medical Practice Coverage](#)
- (i) [Performing Office-based Insured Procedures](#)
- (j) [Performing Office-based Non-Insured Procedures](#)
- (k) [Physician Use of Electronic Communications](#)

- (l) [Prescribing: Access to the Pharmaceutical Information Program \(PIP\) or electronic Health Record \(eHR\) Viewer](#)
- (m) [Referral-Consultation Process](#)
- (n) [Sale of Products by Physicians](#)
- (o) [Standards for primary care](#)
- (p) [Uninsured Services](#)

Physicians who provide virtual care should be aware of, and comply with, the following College bylaws:

- (a) [Advertising, College Regulatory Bylaw 27.1](#)
- (b) [Code of Conduct for Saskatchewan Physicians, College Regulatory Bylaw 7.2](#)
- (c) [Code of Ethics for Saskatchewan Physicians, College Regulatory Bylaw 7.1](#)
- (d) [Licensure for purposes of virtual care, College Regulatory Bylaw 2.11](#)
- (e) [Conflict of Interest, College Regulatory Bylaw 9.1](#)
- (f) [Licensing and Registration Fees Payable to the College – College Administrative Bylaw 9.1\(g\)](#)
- (g) [Medical Records, College Regulatory Bylaw 23.1](#)

## **OTHER RESOURCES**

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Canadian Medical Protective Association - [Telehealth and virtual care](#)

Canadian Medical Association - [Virtual Care Playbook](#)