



POLICY

Sale of Products by Physicians

STATUS:	APPROVED
Approved by Council:	March 2019
Amended:	
To be reviewed:	March 2022

1. Preamble

The sale of products by physicians to patients can present ethical problems. This policy must be read in conjunction with CPSS regulatory bylaw 9.1 and the CPSS guideline on Conflict of Interest. Engaging in the sale and promotion of products to patients may constitute a conflict of interest, real or perceived, where the physician's own interests conflict with the duty to act in the best interests of the patient. Financial benefit by the physician is not necessary to establish a conflict of interest.

Due to the fiduciary relationship between physician and patient, patients may assume that a physician's recommendation of a product implies an endorsement of its efficacy and benefits. Patients may feel obligated to purchase a product due to the physician-patient relationship, and may not be able to make a fully informed, voluntary choice.

Physicians who choose to sell or promote products to patients must give due consideration to the principles outlined in this policy.

2. Definitions

For the purpose of this policy, the following definitions apply:

Medically necessary products include, but are not limited to, any product, device or appliance offered for the diagnosis, cure, alleviation or prevention of disease, disorders or injuries in a patient. These would include products that need to be administered in a clinical setting (such as intraocular lenses, intrauterine devices, or other implanted devices), and therapeutic and medical supplies such as support stockings, ostomy supplies, medical appliances, etc.

Medically optional products are those that while not contraindicated, are not considered absolutely necessary for the treatment of the patient. This would include herbal remedies, vitamin preparations, some dermatology and cosmetic products, anti-aging products, and weight loss and fitness products.

3. Guiding Principles

Physicians who choose to sell or promote products to patients are governed by the following guiding principles:

1. They must ensure they do so in a manner that is in keeping with their professional, ethical and legal obligations. Reference should be made to the Code of Ethics adopted by the College within Regulatory Bylaw 7.1.
2. They must not exploit their patients' trust for their own personal advantage, financial or otherwise.
3. They must adhere to their fiduciary responsibility when selling or promoting products to patients. This includes first considering patient well-being, and the maxim "first do no harm."
4. They must ensure their selection of products to sell is informed by medical evidence and science. Physicians should ensure compliance with the College policy "Complementary and Alternative Therapies."

4. Conditions Applicable to the Sale of Products

Physicians who choose to sell or promote products to patients must meet the following conditions:

1. For medically necessary products, physicians must not sell the product at a price in excess of the actual price paid (this may include all overhead reasonably incurred in making the product available for sale, such as staffing requirements, office space, and the amortization of capital required to store, handle, ship and deliver the product) by the physician.
2. For medically optional products, physicians must not sell the product at a price in excess of the fair market price of that product in the community. If the product is not readily available in the community, physicians must not sell the product at a price in excess of the actual price paid by the physician (this may include all overhead reasonably incurred in making the product available for sale, such as staffing requirements, office space, and the amortization of capital required to store, handle, ship and deliver the product) plus a reasonable markup of no more than 20% of the entire cost.
3. They must, at a minimum, create and maintain records detailing the following for quality assurance and recall purposes:
 - a. The actual costs of the product to the member, including any rebate or price reduction provided to the member;
 - b. The name of the manufacturer and the supplier of the product;
 - c. The date the product was supplied to the physician;
 - d. The lot number of the product, if any;
 - e. The expiry date of the product, if any; and
 - f. Any additional costs incurred by the member, including any formula or calculation used by the member to determine the additional cost added to the price of the product charged to the patient.

4. They must ensure the patient is aware of other options for purchasing the product.
5. There can be no consequences to the physician-patient relationship if the patient elects not to purchase the product from the physician.

5. Seeking Advice

Prior to selling a product out of their offices, physicians may seek advice on these issues, including whether a product is medically necessary or medically optional, by contacting the College and asking to speak with a member of the Registrar’s staff, or by seeking medical legal advice from the Canadian Medical Protective Association.

ACKNOWLEDGEMENTS

The College gratefully acknowledges the College of Physicians and Surgeons of British Columbia and the College of Physicians and Surgeons of Alberta for permitting their documents ‘Promotion and Sale of Products’ and ‘Sale of Products by Physicians’, respectively, to be adapted in preparing this policy.

OTHER RESOURCES

College of Physicians and Surgeons of Saskatchewan – Guideline – Conflict of Interest

College of Physicians and Surgeons of Saskatchewan – Regulatory Bylaw 9.1

College of Physicians and Surgeons of Saskatchewan – Policy -- Complementary and Alternative Therapies