



CONFLICT OF INTEREST STANDARDS

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GUIDING PRINCIPLES

Patients place their trust in audiologists and speech-language pathologists to provide ethical, safe and high-quality care. This trust is based on the assumption that members only refer, recommend, provide or sell products or services that are necessary and are in patients' best interests. Therefore, members must always ensure that their professional judgement is not influenced by personal or financial interests in order to preserve patient trust in them and in the profession as a whole.

The Professional Misconduct Regulation states that it is an act of professional misconduct for a member to practice as an audiologist or speech-language pathologist while in a conflict of interest (Paragraph 11 of section 1 of Ontario Regulation 749/93). Further, the Code of Ethics (By-Law 7 section 4.2.6) also states members shall avoid activities that could be construed as involving a conflict of interest.

A conflict of interest occurs when a reasonable person could conclude that the professional judgement of a member is influenced by personal or financial factors that place the interests of the member, or personal or financial interest of another person who is in a non-arm's length relationship with the member, over that of a patient. Conflicts of interest can therefore be actual, potential or perceived.

The following standards set out the professional expectations of audiologists and speech-language pathologists with regard to actual, potential and perceived conflicts of interest.

DEFINITIONS

BENEFIT: any incentive or inducement, whether direct or indirect, including a monetary payment, rebate, credit, gift, trip or professional advancement.

NON-ARM'S LENGTH RELATIONSHIP: People who are joined in a personal or business relationship.

REFERRAL: a recommendation or direction that a patient seek out another service provider for care or services. It is not necessarily limited to the formal process of directing a patient to a medical specialist. Referrals are based on patient need, provide a range of alternatives, and are not tied to any referral fees.

REFER A FRIEND: a common term used to describe programs whereby a patient receives a benefit (e.g. free batteries, reduced rate of a therapy session, gift card) when they refer someone they know to a member's practice.

STANDARDS



Standard 1

Members must not provide a benefit to another person or agency, or receive a benefit, for a patient referral.

Fees or benefits in exchange for referrals is prohibited based on the principle that health care services and products must be recommended on the basis of patient needs and where possible must provide patient choice. Requesting, receiving, offering or providing referral benefits, such as "refer a friend" programs, undermines this principle. This restriction includes referring a patient to other health service providers or vendors where the member or someone who is in a non-arm's length relationship with the member could potentially receive a benefit, directly or indirectly.



Standard 2

Members must manage/resolve unavoidable conflicts of interest appropriately.

Although members are required to avoid conflicts of interest, there are situations in which an inherent conflict of interest may exist, such as when members recommend their own products or services, or those of their employer. Further, members may receive benefits for the sale or promotion of a manufacturer's product. In such circumstances, members must recommend only those products and services which they feel are in the best interests of the patient, and disclose any personal and/or financial conflicts of interest in the following manner:

- a. Disclose and discuss the nature of the conflict of interest with the patient before providing the services or continuing to provide services;
- b. Make the patient aware of practical alternatives where possible; and
- c. Ensure the patient consents to proceed with the service(s) or product(s).

Similarly, members must mitigate conflict of interests if they are considering providing products and/or professional services to a patient which are also provided by the member’s employer/agency (assuming this is permitted by the employer/agency)¹. For example, a patient may ask for a service to be provided privately by the member sooner than the employer can provide the service. Before the member provides any products or services to augment or replace that which the employer/agency provides, the member must:

- a. Inform the patient that the service is being provided independently of the member’s employer;
- b. Give the patient the option of selecting an alternative service provider, wherever possible;
- c. Inform the patient of any fees for the service to be provided; and
- d. Ensure the patient then expresses a preference for the service in question.

All steps in each of the above circumstances must be undertaken and documented in the patient record as part of obtaining informed consent.

In some cases, the only way to manage or resolve an unavoidable conflict will be to refer a patient to another health care provider. Members must use their professional judgement to determine whether proceeding with treatment is in the patient’s best interest.

	Members must not enter into an employment agreement whereby they clinically supervise the person who employs them.
Standard 3	

When a member is required to clinically supervise the person who has the authority to terminate (or change) their employment or contract, they are in a conflict of interest. Their professional judgement with regards to objectively evaluating this person would be reasonably compromised. This potentially places the patient at risk of receiving inadequate care. There is no way in which one could mitigate this conflict of interest. Consequently, this employment arrangement is prohibited.

	Members must not enter into an agreement with any person or agency that limits the member’s ability to exercise their professional judgement to provide appropriate recommendations.
Standard 4	

¹ It is the member’s responsibility to know and abide by any restrictions imposed by their employer regarding the provision of such products or professional services.

Although members may receive benefits from manufacturers for prescribing, recommending or selling products or services (under conditions outlined in Standard 2, above), members must not agree to exclusively recommend a product or service for personal or financial gain. Exclusivity effectively limits the health options for the patient based on the member's financial gain. Agreeing to such an arrangement has the potential to undermine the professional judgement expected of members.