



“Close-Up on Complaints” presents issues that occur in practice so that pharmacists and pharmacy technicians can use them as learning opportunities. Ideally, pharmacists and pharmacy technicians will be able to identify areas of potential concern within their own practice, and plan and implement measures to help avoid similar incidents from occurring in the future.

AVOIDING ACTUAL OR PERCEIVED CONFLICT OF INTEREST IN BUSINESS DEALINGS

SUMMARY OF THE ISSUE

This issue occurred when a pharmacist placed an advertisement for physicians to work in the medical clinic adjacent to the pharmacy in a building owned by the pharmacist. The advertisement offered “zero overhead” for the physician and payment of expenses by the pharmacy.

A physician sought more information from the pharmacist who informed the physician that the unoccupied space did not have existing expenses, but clarified that any new costs incurred by the clinic would not be covered by the pharmacy. The pharmacist expressed that there was no obligation or expectation of the physician occupying the clinic to encourage patients to fill their prescriptions at the pharmacy, and that the pharmacist believed that nothing prohibited a pharmacy from receiving payment from a physician based on a percentage of earnings. The physician felt that this agreement would contravene

conflict of interest regulations for both pharmacists and physicians.

WHY DID THIS HAPPEN

The main concern here is conflict of interest, whether actual or perceived. It could be perceived that offering clinic space owned by a pharmacist at no cost would be an inducement to prescribers, regardless of whether the prescriber is actually referring patients or suggesting they have their prescriptions filled at the pharmacy. It could be perceived that such an arrangement would encourage a prescriber to engage in such activity.

It could also be perceived that a pharmacist's professional judgment might be compromised in situations in which a pharmacist was receiving increased business from a prescriber. This may affect their ability to be impartial and unbiased in decision-making, as they may fear that questioning a prescription by the prescriber could negatively impact the prescriber-

pharmacist relationship and thus the pharmacy's business.

Pharmacy professionals must avoid situations that are, or may reasonably be perceived to be, a conflict of interest. It is also expected that pharmacy professionals will avoid dual relationships and other situations which may present a conflict of interest and potentially affect their ability to be impartial and unbiased in decision-making.

COMPLAINT OUTCOME

The College's Inquiries, Complaints & Reports Committee (ICRC) oversees investigations of each complaint or report the College receives. The Committee considers a pharmacy professional's conduct, competence and capacity by assessing the facts of each case, reviewing submissions from both the complainant and the pharmacy professional, and evaluating the available records and documents related to the case.

The Panel noted that the primary issue raised by the facts before it is the conflict of interest provisions under both the *Professional Misconduct Regulations* and the *Drug and Pharmacies Regulation Act*. Provisions under the Professional Misconduct Regulations state that it is professional misconduct for a member to practice the profession while in a conflict of interest, while provisions under the *Drug and Pharmacies Regulation Act* state that it is proprietary misconduct to carry on business as a pharmacy while in a conflict of interest as defined in the regulation.

The Panel concluded that these provisions prohibit pharmacies and pharmacy professionals from offering prescribers inducements in the nature of free or below market value rent for premises. Such arrangements give at least the appearance of an inducement to encourage prescribers to maximize patient attendance at a pharmacy, regardless of whether or not this is actually occurring. In the decision, the Panel noted that it would be prudent for pharmacy professionals to rent out premises to physicians or other healthcare professionals at market value.

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The Panel issued advice and recommendations to assist the pharmacist in how he may be more thoughtful in his practice when engaging in business relationships.

LEARNINGS FOR PHARMACY PROFESSIONALS, DESIGNATED MANAGERS, DIRECTORS AND CORPORATIONS

Reflecting on this complaint provides pharmacy professionals, Designated Managers, directors and corporations with learning opportunities to recognize

and avoid conflicts of interest in business dealings. There is a joint responsibility for all involved in the provision of pharmacy services to ensure that the primary focus is on the well-being and best interest of the patient and that professionalism and ethics are being applied in all areas related to practice.

A perceived conflict of interest can erode public trust just as much as an actual conflict of interest. Patients trust that as healthcare professionals, pharmacists and pharmacy technicians will use their knowledge, skills and abilities to make decisions that enhance their health and well being; conflict of interest breaches healthcare professionals' core obligation to act as fiduciaries of the public trust.

Pharmacy professionals must recognize that other healthcare professionals also have a responsibility to avoid conflicts of interest in their own practice. **In this case, the physician is governed by *conflict of interest regulations* under the *Medicine Act* that specifically indicate that it is a conflict of interest to rent premises from a supplier, except where rent is normal for the area and the amount of rent is not related to the volume of business.** Directors, Designated Managers, pharmacists and pharmacy technicians should understand and respect the role that they and all healthcare practitioners have to uphold the basic ethical principles of healthcare, including accountability, and maintain patient trust in the system as a whole.

PHARMACY PROFESSIONALS

The Code of Ethics and Standards of Practice clearly outline that patient need, and not monetary gain, must be what a pharmacy professional considers when prioritizing care. Pharmacy professionals must only provide pharmacy care and services that are of good quality and intended to optimize the patient's health outcomes and should never compromise patient care to further corporate or business interests.

If there are concerns that human resources, policies, procedures, working conditions or the actions, professional performance or health of others may compromise patient care or public safety, pharmacy professionals must raise concerns to the appropriate authority. Pharmacy professionals must also report unethical behavior or professional incompetence by colleagues or other healthcare professionals to the appropriate regulatory authority. Ultimately, if you think there is something wrong, you have a professional responsibility to take action to protect your patients.

DESIGNATED MANAGERS, DIRECTORS AND CORPORATIONS

Designated Managers, directors and corporations are responsible for ensuring that the practice environment supports practice in alignment with the Standards of Practice and Code of Ethics. They should support and require pharmacy professionals to practice with professional integrity and use their professional judgment to advocate for patients when necessary and appropriate.

All pharmacies are also required to ensure that policies and procedures in the pharmacy respect and support the patient's right to choose a pharmacy and/or pharmacy professional – business decisions cannot hinder patient choice of where to receive services.

While it did not apply in this specific case, pharmacy professionals, Designated Managers, directors and corporations are reminded that members cannot accept gifts, inducements or referrals that may effect, or be perceived to effect, their professional judgment. They must also ensure that they are not participating in any referral program with other pharmacy professionals or with members of other

healthcare professions for the express purpose of benefiting financially.

A conflict of interest does not arise as a result of normal and customary rent.

CONCLUSION

All pharmacy professionals must recognize that their patient's best interests must always override their own interests, or the interests of the business which the member owns, has a financial interest in or is employed by. If a pharmacy professional feels that they have been placed in a conflict of interest, they must demonstrate personal and professional integrity by ensuring they inform an appropriate person with oversight of pharmacy operations.

Pharmacy professionals and those operating a pharmacy must recognize that self-regulation of the profession is a privilege. Every pharmacist and pharmacy technician has a professional responsibility to uphold this privilege by maintaining public trust and confidence in each member individually and the profession as a whole. 

CODE OF ETHICS ACCOUNTABILITY MODULE



The Principle of Accountability (Fidelity) requires you to be a responsible and faithful custodian of the public trust, accountable not just for your own actions and behaviours, but for those of your colleagues as well.

[Watch the module now!](#)

NEW PROFESSIONAL MISCONDUCT REGULATIONS

[New regulations](#) (130/17) under the Pharmacy Act speak specifically to conflict of interest in relation to this type of case.

Part II, 6(d) of the regulations indicates that a member is in a conflict of interest when he or she "enters into any agreement or arrangement that influences or encourages, or appears to influence or encourage, a prescriber to promote the services of the member or of any pharmacy in which the member is employed, with which the member is associated or in which the member has a financial interest;"

The regulations came into effect on May 5, 2017.