ADVICE TO THE PROFESSION: ACCEPTING NEW PATIENTS

Advice to the Profession companion documents are intended to provide physicians with additional information and general advice in order to support their understanding and implementation of the expectations set out in policies. They may also identify some additional best practices regarding specific practice issues.

The establishment of trust between a physician and a patient can begin as early as when patients start seeking care. A patient's perception about whether a physician is accepting new patients in a fair and transparent manner can support the establishment of a trusting physician-patient relationship and foster trust in the profession.

The *Accepting New Patients* policy sets out physicians' professional and legal obligations when accepting new patients and helps to ensure that decisions to accept new patients are equitable, transparent and non-discriminatory. This companion *Advice to the Profession* document is intended to help physicians interpret their obligations as set out in the *Accepting New Patients* policy and provide guidance around how these obligations can be met.

Acting in "good faith"

The term "good faith" is a legal term that means an intention to act in a manner that is honest and decent. In other words, the term may be characterized as a sincere intention to deal fairly with others.

In the context of accepting new patients, physicians can act in good faith by:

- Closing their practice when it has reached capacity, not as a way to refuse patients who may be perceived as less desirable;
- Assessing, in a fair and honest manner, whether their medical knowledge and clinical skills will meet a patient's health-care needs, and not using a lack of medical knowledge or clinical skills to unfairly refuse patients with complex or chronic health needs; and
- Prioritizing access to care because a patient truly has high and/or complex health-care needs, and not because a patient is perceived as "easy" and/or requires less time or resources.

Priority populations

"Priority populations" refers to any population group that experiences (or is at risk of experiencing) health inequities and/or that would benefit most from public health services. While priority populations may differ slightly depending on a physician's practice type and location, some common examples of priority populations include:

- Pregnant people and newborns;
- Older people;
- People living in rural, remote or other communities with poorer access to care;
- People experiencing homelessness;
- People experiencing severe and persistent mental illness;
- Marginalized people;[1]
- Refugees, asylum seekers, and migrants;
- People who use or misuse substances; and
- People experiencing poverty.

[1] Marginalization refers to a social process by which individuals or groups are (intentionally or unintentionally) distanced from access to power and resources, and constructed as insignificant, peripheral, or less valuable/privileged to a community or "mainstream" society.

Communicating physician criteria for accepting new patients

Some physicians may choose to establish criteria for accepting new patients. Physicians need to use their professional judgment to determine when and how to communicate any criteria they use when accepting patients into their practice. To promote patients' understanding and ensure that decisions to accept new patients are equitable, transparent, and non-discriminatory, physicians are encouraged to inform patients of any criteria they have at the earliest opportunity, for example, during an introductory meeting or when the patient first inquires whether the practice is accepting patients.

Physicians' criteria for accepting new patients must be directly relevant to their clinical competence, scope of practice, and/or focused practice area. Appropriate criteria for physicians who serve a defined target population could include, but are not limited to, the following examples:

- Family physicians focused on Indigenous health may decide to mostly accept First Nations, Inuit, and Métis patients.
- Family physicians with a focused practice on addiction medicine may decide to primarily accept patients with substance use disorders.
- (Sub)specialists who provide limited or highly specialized services may primarily accept patients with a specified condition, or those with a higher likelihood of having that specific condition.

Ensuring criteria for accepting new patients is "fair and equitable"

By ensuring that any criteria for accepting patients is fair and equitable, physicians fulfill their legal obligations under the *Ontario Human Rights Code (the 'Code')* which entitles every Ontario resident to equal treatment with respect to services, goods and facilities, without regard to race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, or disability.

There are different ways in which physicians can ensure that their criteria are fair and equitable and that all prospective patients receive equal treatment with respect to accessing health services. For example, using "first-come, first-served" approaches, "lottery" systems, or other non-discriminatory, equal-opportunity approaches to accepting patients can help ensure that patients who fall under the physician's criteria for accepting new patients are accepted into the practice in a fair and transparent manner.

Physicians will need to use their professional judgment in determining what approach best fits with their practice and how they can meet this requirement.

Informing patients that they will not be accepted into a practice

Physicians are reminded of the importance of clear, respectful, and honest communication when informing patients of their decisions not to accept them into their practice. Some individuals may interpret refusal as discrimination even when the physician's reasons for refusing to accept the patient are legitimate, and effective communication can help dispel perceived discrimination. The Canadian Medical Protective Association's (CMPA) *Patient-centred communication* offers guidance to physicians on how to communicate effectively with patients to optimize their care.

Accepting patients with a history of opioid use

Physicians who feel that treating patients with a history of prescription opioid use is legitimately outside of their clinical competence and/or scope of practice are reminded that:

- Responsibly prescribing narcotics and controlled substances is part of good clinical care, and refusing to prescribe these drugs altogether (e.g., through "no narcotics" policies) may lead to inadequate management of some clinical problems and leave some patients without appropriate treatment.
- There are relevant resources and clinical practice guidelines that can assist in managing the care of patients with a history of prescription opioid use. For example, the Centre for Addiction and Mental

Health (CAMH) has developed the *Canadian Opioid Use Disorder Guideline*, a national clinical guideline that standardizes guidelines for Canadian prescribers of opioid agonist therapy.[2]

- Where elements of a patient's care needs are legitimately outside a physician's clinical competence and/or scope of practice, the patient will need to be referred to a provider for those elements of care that they are unable to manage directly.
- Given the broad scope of practice of primary care physicians, there are few occasions where scope of practice would be an appropriate ground to refuse a prospective patient, and determinations about whether a patient's health-care needs fall within their clinical competence and/or scope of practice must be made in good faith.

Patients who live a significant distance away from a practice

CPSO does not restrict physicians from accepting or refusing to accept new patients solely based on designated catchment areas or geographical boundaries. However, physicians will need to use their professional judgment to determine whether they can provide quality care to the patient despite the significant geographical distance between them.

For example, a physician may be able to accept a patient who lives far away from the practice if the patient is willing to travel to the clinic or if the physician feels appropriate care can be provided virtually.[3] On the other hand, it may not be appropriate for (or in the best interest of) patients whose care requires regular in-person visits to be accepted into a practice that is located a significant distance from where they live if they are unable to attend in-person appointments.

When determining whether to accept a patient who lives far away from their practice, physicians can discuss with the patient how the geographical distance between them could impact the patient's ability to receive the care they need.

Patients seeking a second opinion

Specialist physicians will need to use their professional judgment to determine whether it is appropriate to refuse a request for a second opinion. Specialist physicians will need to weigh any potential benefit to the patient of receiving a second opinion against the demand for health services from patients who have not yet received care. It would be inappropriate, however, for physicians to practise medicine in a manner that hinders patient autonomy or limits patient decisions about the care they receive.

Regardless of the reason for refusal, specialist physicians who refuse to accept a referral need to comply with the relevant expectations set out in CPSO policies, including *Accepting New Patients* and *Transitions in Care*.

Using waitlists

While physicians are not prohibited from using self-managed waitlists, those who use waitlists in their practice need to use them cautiously and carefully manage patient expectations by clearly communicating the expected waiting period.[4]

Resources such as CMPA's *Wait times when resources are limited* contain additional guidance for physicians who use waitlists. Physicians will need to use their professional judgment to balance the patient's best interest with the availability of resources and clearly communicate with the patient and their care team.

Where available, physicians who are accepting new patients are encouraged to use provincial wait lists (e.g., Health Care Connect for unattached patients seeking a primary care provider) and/or centralized referral systems (e.g., physician networks within Ontario Health Teams).

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[2] See CPSO's *Prescribing Drugs* policy and *Advice to the Profession: Prescribing Drugs* for more information, including the use of prescription treatment agreements ("narcotics prescribing contracts") and education and training resources.
[3] See CPSO's *Virtual Care* policy and *Advice to the Profession: Virtual Care* for more information, including on establishing physician-patient relationships in virtual settings and the limitations of virtual care.
[4] See CPSO's *Transitions in Care* policy for more information on consultant physicians' obligations to communicate wait times and appointment dates with referring physicians and patients.