

Guide for Professional Practice of Physiotherapists

~ Advertising, Fees & Billing, Conflict of Interest ~

For physiotherapists, whether they are practising in the public or private sector, the focus must always be on acting in the best interests of the patient. This is a fundamental concept that applies to all health care providers and is known as having a fiduciary duty to the patient. While it is permissible for physiotherapists to profit from their business as a result of applying their knowledge and expertise, their professional judgment must not be compromised by either financial reward or a personal relationship.

The purpose of this Guide is to highlight the challenges faced by physiotherapists in the marketplace while providing a framework for: making appropriate decisions or choices that are in the best interest of the patient, meeting the Standards of Practice of the profession, and providing safe, quality care.

The Guide is organized into three sections:

I Advertising

II Fees and Billing

III Conflict of Interest

For **Advertising, and Fees and Billing**, where the requirements may be less complex, some Frequently Asked Questions (FAQs) are provided along with Applied Practice Scenarios.

For **Conflict of Interest**, the application of the expectations can be more complex, and a decision-making framework is provided in the form of Key Questions to Ask with some sample scenarios and discussion. Additional scenarios and a worksheet are provided for some self-reflection and development of your own responses to additional similar situations.

Finally, there are additional practical application tools or checklists for advertising, and fees and billing.

ADVERTISING

Introduction

The evolution of physiotherapy practice now provides physiotherapists with additional opportunities to communicate information about their services to potential patients and referral sources using appropriate advertising methods. Information such as the type, availability, and costs of products and services may be advertised (provided the information meets Practice Standards and the Regulation on Advertising.)

To help physiotherapists interpret the expectations in Standards and Regulations, here are some Frequently Asked Questions (FAQs) along with Applied Practice Scenarios.

ADVERTISING Frequently Asked Questions

1. What information may be advertised?

Physiotherapists may advertise certain types of information which assists potential patients in choosing a care provider. The following types of information may be advertised:

- Focus of the practice
- Services and products offered (i.e. type, availability and costs)
- Payment methods accepted

Advertised information should also be:

- Conveyed using a public medium*
- Accurate, verifiable, comprehensible and appropriate
- Within the scope of practice of physiotherapy
- Compliant with the Standards of Practice and Regulations

* Public medium = *the information is equally available to potential patients and does not target individuals. Advertising is not the same as providing information to prospective referral sources; sending out health care notices and reminders; or periodically contacting current or former patients for goodwill purposes.*

See also: www.adstandards.com (Advertising Standards Canada)

2. What information may not be advertised?

The following list includes some of the types of information that should not be advertised:

- **Comparative or superlative statements about quality, products or people** (e.g. stating that your service or product is the best or is better than another's) – this is in keeping with the need to provide true and verifiable facts.
- **Quotes or testimonials from patients or service recipients** - physiotherapy care is provided on an individualized basis following an assessment and no two people are likely to have the same experience. It is also very difficult to measure a person's health care experience plus, quotes and testimonials cannot be objectively verified.
- **Guarantee of results** (e.g. "guaranteed better in fewer than 10 visits, or else further treatment

is free”) - every patient will respond differently to treatment and “better” for one patient is not necessarily the same as “better” for another patient; because “better” can’t be measured in absolute terms, it cannot be verified.

- **Endorsements or recommendations for the exclusive use of products or services** - when recommending a particular product or service, physiotherapists should also provide information on other similar products and allow the patient to make an informed choice.

- **Endorsements of a physiotherapist or his/her practice** - this includes reference to an individual’s successful completion of professional competency programs (for example) since such programs are confidential, and regulators cannot verify results to others.

- **Information that promotes a demand for unnecessary service** - offering to provide a product, service or treatment prior to an assessment (e.g. a free walker or free massage with every new

- **Specialist qualifications** - advertising of specialist qualifications (unless previously approved and confirmed by CPTNB.) See CPTNB Rule on Specialty Recognition.

3. What if an employer or facility administrator is responsible for the advertising of the clinic (including the services provided by a physiotherapist)?

The physiotherapist is responsible for taking reasonable steps to ensure that any advertising referencing the services provided by the physiotherapist meets the Standards of Practice and the Regulation on Advertising. This includes advertising that is done by another person on their behalf.

Reasonable means understanding the expectations in the Standard and Regulations, ensuring that the employer is also aware of the expectations, and requesting changes to any content that does not meet these.

4. Can I hand out free pens with my company logo and contact information in order to spread the word about my services?

Yes, token items such as free pens or other items may be used to advertise services, provided the expectations outlined in the Standards of Practice and Regulations are also met.

5. Can I offer coupons for free assessments or other services in my advertising to attract patients?

Offering to conduct an assessment or to provide other services free of charge may be permissible, provided the offer complies with the standards and Regulations. (*see also Advertising – FAQs in this guide.*)

It is also important to ensure that the offer does not lead to or encourage a demand for unnecessary services. Quality service should be provided; there should be no excessive fees charged elsewhere to recover costs; there should be no false or misleading accounts submitted to the patient or payer; and there should be no misrepresentation of the services that were provided (all of which could be considered to be professional misconduct).

6. Can I offer specials such as a 20% discount for seniors’ week?

While such offers may be considered in order to attract new business, it is important to remember that all College Standards and requirements for safe, quality care be met including conducting an assessment

prior to any intervention, ensuring the need for services, and documenting appropriately. (see also FAQs – Advertising & Fees/Billing in this guide.)

ADVERTISING Applied Practice Scenario

A physiotherapist with an interest in gait analysis and the treatment of foot disorders has recently expanded his private practice to include the sale of orthotics and specialized footwear. The physiotherapist wishes to advertise this new service.

A. What options could be considered?

Whether advertising this service to new or current patients, and regardless of the medium chosen, the issues remain the same as are outlined in the standards and the Regulation on Advertising and summarized in the Advertising Checklist below. The information should be true, accurate and verifiable by the physiotherapist. The information should be comprehensible and not misleading to the intended audience (i.e. by omitting relevant information or including non-relevant facts). The information should be appropriate in terms of the content and how it is presented so that it is in accordance with the generally accepted standards of good taste of the profession and the intended audience.

The information should be presented using a public medium. This means that, generally speaking, the advertisement is equally available to anyone who chooses to use it and that it is directed to the public, or a subsection of the public, rather than to an individual(s). For example, newspapers, radio, television, websites (but not individually targeted e-mails), flyers (provided they are distributed publicly and not individually targeted), and the yellow pages are all examples of public media. Other examples include: displaying information inside the clinic, on a sign in front of the building, in a community newsletter, on a bus shelter or billboard, on mouse pads, pencils, USB keys etc.

Finally, advertised information should relate to the scope of practice of physiotherapy and be compliant with College legislation and positions.

B. The physiotherapist is considering offering free running shoes with the purchase of orthotics to attract new patients. What are the issues with this practice?

Offers such as this one are often used as an incentive to attract new patients. Offering free shoes with the purchase of orthotics may be permissible provided the shoes are truly free (i.e. the costs are not built into the price of the orthotics) and the patient actually needs orthotics (i.e. no unnecessary services [orthotics] are provided in order to receive a benefit [free shoes for the patient and a financial benefit for the physiotherapist]). If the physiotherapist's judgment has the potential to be influenced by the opportunity for financial gain, there are a number of steps that should be taken to recognize and disclose the conflict of interest situation. See also: *Conflict of Interest* section of this guide.

As a reminder, Record Keeping requirements include that physiotherapists maintain a record of services provided to a patient. In this situation, the need for orthotics should be justifiable based on the assessment, results, analysis and treatment recommendations as documented in the patient record.

Physiotherapists should consider the impact of their business decisions and how others may perceive those actions. Decisions should be made based solely on the patient's needs and not a desire to profit, recover losses or pay for an offered incentive. Actions such as these could be perceived as professional misconduct.

Advertising Checklist for Physiotherapists

When considering the content of an advertisement, physiotherapists may find the following checklist helpful. This list not exhaustive but can provide physiotherapists with an optional tool to apply standards.

Do not use this checklist in isolation. It does not replace reading and understanding the expectations outlined in legislation and College documentation. When in doubt, contact the College.

1. Is the advertised information? ...

- True**
- Accurate**
- Verifiable**
- Comprehensible (to the intended audience)**
- Not misleading**
- Professionally appropriate**

2. Does the advertised information? ...

- Meet the Standards of Practice, Regulations, Guidelines, etc.**
- Use a public medium**
- Relate to the Scope of Practice of physiotherapy**
- Facilitate informed choice**

3. Does the advertisement avoid? ...

- Promoting a demand for unnecessary service**
- The use of endorsements, testimonials or guarantees**

FEES AND BILLING

Introduction

Billing can be a complex issue and the need to know the details of billing practices can vary with the practice setting. There are a number of different billing models or payment systems in effect in New Brunswick. e.g. global hospital or government funding, motor vehicle accident (MVA) insurance coverage, Work Safe coverage, private health insurance coverage (some direct, some not), and direct payments from patients. Each system has its own characteristics and requirements (e.g. fee limitations, medical referral, co-payment by the insured, maximum annual coverage, etc.). These complicated systems often present a challenge for physiotherapists in the private sector to understand and manage the differing requirements of various payers.

Physiotherapists are expected to:

- (i) develop an understanding of the requirements of each system they access for payment;
- (ii) make appropriate decisions to integrate the information; and
- (iii) ensure compliance with College Standards of Practice.

There are also a variety of ways to bill for treatment e.g. a set fee per treatment session (regardless of what treatment is provided or how long the appointment); a set fee per hour or part of an hour; a fee for each item of service provided or a set fee for a program of care. Although this variety may be confusing, the College does not dictate how to bill for services rendered but rather requires that physiotherapists be transparent with respect to billing practices.

The College expectations with respect to fees and billing are the same regardless of the system that is accessed for payment or how the fees are calculated.

Physiotherapists are expected to:

- 1. Establish a fee schedule**
- 2. Communicate the fee information to patients - making sure that patients understand the financial implications of their care (this includes allowing them to ask questions)**
- 3. Ensure the transparency, accuracy and reasonableness of fees - by periodically auditing invoices and billing practices**

FEES & BILLING

Frequently Asked Questions

1. Should the fee schedule be printed out for each patient or can it be posted for all to see?

While the Standard of Practice: Fees and Billing requires that a fee schedule be established, there are no requirements on how the fee schedule be published. Physiotherapists may choose to print out a copy of the fee schedule for each patient or they may choose to post the fee schedule on the wall for all to see. There are advantages and disadvantages to each approach. Physiotherapists can determine for themselves which approach would works best in their particular setting.

Having a fee schedule is not enough. The fee schedule should be discussed with each patient prior to initiating treatment to ensure that they understand the financial aspects of their proposed treatment. Patients should understand what they will be billed for, how they will be billed, and the expectations regarding payment in order to make an informed choice about the care that is being proposed. Discussion of the fee schedule should include all financial elements outlined in the Standard such as administrative charges, charges for missed or late payments, fees for written reports etc.

(See also the [Billing Essentials Checklist](#) in this guide.)

2. What information should be provided to patients during a discussion of the fee schedule and billing practices?

Patients should be provided with the following information

1. What they are paying for – including:

- The fees for services (e.g. assessments, re-assessments, treatment etc.)
- The fees for any products or treatment adjuncts (e.g. weights, Theraband, mobility or assistive devices etc.)
- Any administrative fees or additional charges (e.g. photocopying, report writing, late payments, missed or cancelled appointments etc.)

2. How the bill will be calculated

3. The timing and frequency of billing

4. Their accountability including:

- The total anticipated costs based on the proposed frequency, duration and length of treatment
- The methods of payment accepted
- Any peculiarities related to payment method (e.g. any implications with respect to third party payers)
- Fees for late payments/missed appointments
- Relevant financial policies and/or payment expectations

3. Can administrative staff provide the details of billing information or should the physiotherapist?

The physiotherapist does not have to discuss billing information with the patient but the physiotherapist should ensure that accurate information is provided, that the patient understands the information, and has an opportunity to ask questions.

4. What are my responsibilities when the billing is taken care of by someone else (e.g. office manager)?

Physiotherapists are responsible not only for the services they provide but also for the accuracy and reasonableness of the fees charged for their services. While it is permissible for another person to manage the billing aspects on behalf of the physiotherapist, it is the responsibility of the individual physiotherapist to ensure that the billing practices meet College expectations and Standards.

Physiotherapists should maintain knowledge of and control over billing. For example, physiotherapists should understand the fees that are being charged for their services, how their registration or billing number is being used and the organizational policies that exist with respect to billing.

It is also important that physiotherapists periodically monitor invoices and billing practices, to ensure accuracy and should any inaccuracies be discovered, that reasonable steps are taken to remedy the error.

5. What is a reasonable fee?

Although the College requires that fees be reasonable, the reasonableness of a fee is best determined by members of the profession. If the College received a complaint about an excessive fee it would look to practising physiotherapists to provide information on what a reasonable fee would be, given the circumstances (e.g. the type of product or service, the actual cost of the product or service, the geographical area, etc.). NBPA/CPA are better positioned to offer advice in this area.

(Refer also to the schedule established by the N.B. Physiotherapy Clinics - NBPC).

6. Can I accept a lower fee or offer a discount to certain groups?

A physiotherapist may choose to offer or accept a fee that is lower than is documented on the fee schedule (e.g. a senior or student discount, a discount for cash payments etc.); however, it is important to first, be clear on what you expect to be paid by having a documented fee schedule. It is then up to the individual physiotherapist whether or not to accept a lower fee. Remember that any departures from fee schedule should only reduce fees and it is never acceptable to increase a fee based on a patient's ability to pay. Any variation from the fee schedule should be documented in the patient record.

(See also Advertising – FAQs)

The following should be considered when providing reduced rates:

1. Always deliver safe, quality care
2. A fee reduction means patients receive the same service but at a lower fee
3. Consider how others may perceive these actions

7. Can the fee schedule vary with the fee payment system being accessed?

Yes. There are a number of different fee payment systems in effect in New Brunswick and payers differ with respect to the fees they are willing to pay for particular services. The variances in fees and the requirements of each system can be difficult for patients to understand, and it may be appropriate to provide fee information that relates specifically to the system that is being accessed for payment to ensure understanding and transparency.

8. My costs have gone up and I would like to increase my fees: (a) How should I inform my patients? (b) Would the new fee apply to all patients or should it be applied only to new patients?

The College does not have a specific position on how to increase fees. The requirements are to ensure reasonableness, transparency, accuracy and understanding; and that patients are notified in a timely way. Patients should be advised of the fees prior to performing services.

For current patients, an increase in fees may result in them being unable to continue treatment. Physiotherapists have a higher duty of care for current patients and would need to consider whether they could continue to provide services at the lower rate or whether there were other payment options that could be pursued. If there were no other options and discontinuing service is being contemplated, physiotherapists are expected to consider the vulnerability of the patient, the risk of harm of discontinuing treatment, and the impact on the patient's ongoing care needs.

9. What if a patient can't afford to pay the fee?

Physiotherapists are not required to offer fee reductions. If a patient reveals that they are limited in their ability to pay for a proposed course of treatment, the physiotherapist should initiate an open discussion of the treatment options and priorities, as well as potential payment alternatives. This discussion is important to allow the patient to make an informed decision about what treatment they would like to receive, based on what they can afford to pay.

10. What if a patient does not pay? Can I discontinue treatment or ask for payment up front?

Physiotherapists are not required to provide treatment to patients who are unable or unwilling to pay. If a patient is not compliant with payment expectations, the physiotherapist should initiate a discussion to review the expectations for payment and the consequences of not complying. It may also be appropriate to extend the payment period or provide alternative options for payment based on the circumstances.

If a reasonable effort to collect the fees owed has been unsuccessful, it may be appropriate to require payment in advance or even to discontinue treatment. However, physiotherapists have a higher duty of care for existing patients and should consider the patient's vulnerability and any potential alternatives or options prior to discontinuing treatment. If discontinuing service is the most reasonable option, it is important to ensure that patients are provided with adequate notice of the intent to discharge; a clear and appropriate rationale for the discontinuation of service; and a reasonable opportunity to obtain services from another physiotherapist.

11. Can I bill for physiotherapy services that are provided by Physiotherapist Support Personnel or physiotherapy students?

While it may be appropriate to have a different rate in these circumstances, the College does not have a specific position on this issue. College requirements outline that physiotherapists be transparent about what is being provided, by whom and how that service is being billed.

Remember, patients should be provided with enough detail to enable them to provide *informed* consent for all aspects of their care including the financial aspects. Third party payers may have additional requirements or restrictions.

12. Must I collect the insurer co-payment?

Many private extended health benefit plans do not provide 100% coverage for health care services such as physiotherapy, and typically require the beneficiary (patient) to make a partial payment to cover the difference. This requirement for the patient to make a partial payment is part of the contract between the insurance company and their client (i.e. the patient). An insurer may also require a physiotherapist to collect the co-payment in order for the physiotherapist to receive direct payment from the insurer as part of the insurer contract with the physiotherapist.

While the requirement to collect a co-payment is an insurer obligation rather than a College one, the College does require that all billing information be accurate, and representative of the services provided, the fees charged and the payment collected. Failing to itemize an account when requested and submitting a false or misleading account can be found to be professional misconduct.

FEES & BILLING Applied Practice Scenarios

A. A patient injured in a motor vehicle accident is seeking treatment from a physiotherapist.

At the first visit the physiotherapist gathers information from the father (the substitute decision-maker) about the family's extended health benefits in addition to information about the motor vehicle insurer in order to bill directly. The father is very informed about all aspects of his child's medical care and the physiotherapist assumes that the father is also aware of the requirement to bill the family's extended health insurance carrier first for the cost of treatment. At the completion of the treatment program the physiotherapist presents the final invoice to the father. The father is outraged at having to exhaust his extended health benefits before the motor vehicle insurance can be accessed. He insists that the physiotherapist reduce the amount billed to the extended health insurer and increase the amount billed to the motor vehicle insurer.

Discussion

This scenario highlights the importance of taking the time to ensure that patients truly understand the financial implications of the treatment being proposed. Regardless of how well-informed a patient or substitute decision-maker may seem, it is prudent to further explore and ensure understanding in all areas of care including financial aspects. By presenting the final invoice at the completion of the treatment program rather than taking the time to ensure the father understood billing, the physiotherapist placed herself and the patient in a difficult position. The physiotherapist cannot alter (falsify) the invoice and now needs to diffuse a volatile situation that could have been avoided.

B. A physiotherapist works at a clinic where most patients come for treatment 3 to 5 times per week for 6 to 8 week blocks of time. The usual billing practice is for the business manager to send an invoice to the payer every 4 weeks on behalf of the physiotherapist using the physiotherapist's billing number.

Last month while reviewing invoices, the physiotherapist noticed that several patients had been billed for treatment using the physiotherapist's billing number even though the physiotherapist was on vacation at the time. These patients did receive treatment on the days in question but

the treatment was provided by a physiotherapy assistant who was being supervised by a physiotherapist colleague.

When the physiotherapist questioned the business manager, the physiotherapist was told that because the patient “belonged to him” there was no issue with submitting the invoice using the physiotherapist’s name and billing number.

Discussion

The requirements for supervision of support personnel and the information to be included on an invoice are outlined in College documents on Physiotherapists Working with Physiotherapist Support Personnel and Record Keeping.

When it comes to fees and billing, physiotherapists are responsible for ensuring the transparency, accuracy and fairness of accounts submitted in their name and are required to periodically audit invoices and billing records. In this situation the invoice is not accurate. The physiotherapist should take reasonable steps to ensure that the business manager understands the expectations for billing, and the need to not only correct the current invoices but revise the relevant policies to prevent future similar errors.

Billing Essentials – Checklist

Physiotherapists may find the following checklist helpful. This list not exhaustive but can provide physiotherapists with an optional tool to apply standards. Do not use this checklist in isolation. It does not replace reading and understanding the expectations outlined in legislation and College documentation. When in doubt, contact the College.

- Is a fee schedule available?
- Are there systems in place to ensure that patients are provided with relevant fee information and billing expectations?
- Are patients notified of all fees? (including charges for assessments, treatments, re-assessments, late payments, missed appointments etc.)
- Does the discussion of the fee schedule describe for patients what the fees are, how they will be applied and what they will be paying for?
- Are patients given an opportunity for discussion and questions related to fees?
- Are the circumstances when exceptions to the fee schedule can be made clearly described/understood?
- Do you understand how billing is done on your behalf?
- Do you have a system to monitor the accuracy of invoices?
- Do you understand the fee information provided on the invoices?
- Is there a policy for how patients are billed for administrative charges, services provided by support personnel, students or indirect PT time?

CONFLICT OF INTEREST

Introduction

A conflict of interest arises when a physiotherapist is in a position where their professional judgment could be influenced or compromised either by a personal relationship or a financial benefit. *See definition.*

Whether or not the physiotherapist's judgment is actually compromised does not matter. The fact that a reasonable person might perceive a compromise may constitute a conflict of interest.

Conflict of interest situations give patients and others the impression that their care and/or the costs associated with their care may be compromised. Physiotherapists are expected to put the interests of their patients ahead of their own and avoid conflict of interest situations. That does not mean that physiotherapists cannot profit from their knowledge, skills and experience but that given all circumstances, they must ensure that their judgment is not compromised.

The College receives many questions and requests for guidance from physiotherapists in relation to a conflict of interest. Many times the issue is not black or white and physiotherapists are required to apply their best judgment given the specific circumstance. To assist with the process of identifying and dealing with conflict of interest situations, two principle based tools are provided. One tool outlines a series of key questions to ask when facing a potential conflict of interest situation, while the other describes the steps to be taken to ensure transparency and understanding by all parties involved when a conflict of interest cannot be avoided.

Some common scenarios are also discussed using these tools to illustrate how to apply the principles. The scenarios are not intended to be exhaustive but rather to give examples of how to manage potential conflict of interest situations. This principle based approach also allows for flexibility to apply to new and emerging situations. To this end, a self-reflection or applied learning section has been included. A work sheet is also provided to allow physiotherapists to consider additional situations and work through their own response.

Definition of Benefit

Any gift (financial or non-financial), advantage, or payment of any kind, whether direct or indirect, including:

- monetary payments, other than those that pay for services rendered at fair market value (e.g. paying an excessive fee for a report from a referral source)
- rebates, credits or discounts on, or reimbursement of the cost of goods or services
- the receipt of goods or services at no charge or a cost which is less than prevailing market value
- the distribution of goods or services at no charge or a cost which is less than prevailing market value
- the payment or reduction of any amount of any debt or financial obligation
- the receipt of any consultation fee or other fees for services rendered
- loans, where the interest rates or repayment terms do not reflect prevailing market trends

Conflict of Interest: Key Questions to Ask

The following list of questions may assist physiotherapists when facing a potential conflict of interest situation:

1. What is my relationship with the person(s)?
2. What are the financial implications?
3. How might my judgment be affected by our relationship or this financial agreement?

Am I able to:

- ...provide quality care?
- ...act in good faith?
- ...be fair and transparent?

4. How might others perceive this situation?
5. Could I justify my decisions and actions if required?

Responses to these questions will assist physiotherapists to act in the best interest of the patient when determining a course of action. In a self-regulatory model, physiotherapists have control over their professional decisions and are accountable for all aspects of their practice.

Steps to Follow When Conflict of Interest Cannot Be Avoided

In circumstances when a conflict of interest cannot be avoided and there is no viable alternative, physiotherapists should take the following steps:

1. Disclose the conflict of interest to ensure transparency and understanding by all parties
2. Consider and offer possible alternatives or choices. This would include:
 - ..Considering potential health consequences to the patient
 - ..Ensuring the best interests of the patient
 - ..Adopting the most reasonable course of action
 - ..Allowing the patient to ask questions and make an informed choice
 - ..Reassuring the patient that their decision will not affect any future care
3. Document the discussions and decisions that took place

CONFLICT OF INTEREST **Applying the Key Questions**

Considerations When Making or Receiving Referrals for Care

1. A physiotherapist works in a hospital providing care to post-surgical orthopaedic patients...

The physiotherapist is concerned about patients' access to care in the community upon discharge and invests in a private outpatient clinic nearby. The physiotherapist would like to refer patients to the clinic when they are discharged from the hospital. What should the physiotherapist consider?

What is the relationship or the financial implications? As an investor in the private clinic, the physiotherapist will likely receive a financial benefit by referring patients to the private clinic. This could be perceived as a conflict of interest and likely should be avoided.

There are however situations where it would be in the best interests of the patient to be referred to this clinic despite the conflict of interest (for example, where a community has limited options for treatment). In cases such as this, when the conflict of interest cannot be avoided, the patient has a right to make an informed choice regarding service provider and to understand any financial benefit to the referring physiotherapist. In order to manage the conflict of interest, the physiotherapist should follow the steps outlined in Figure 2 (i.e. disclose the conflict of interest; offer alternatives for care; allow patient choice; reassure the patient that there will be no effect on their care; and document appropriately).

2. A physiotherapist owns a number of private clinics including a multidisciplinary clinic that offers the services of a massage therapist...

The physiotherapist sees patients at the various clinics who would benefit from a referral to a massage therapist. What are the implications if the physiotherapist refers her patients to a massage therapist working in one of her clinics in the following situations?

A. The physiotherapist is suggesting a referral to a massage therapist within the same practice (i.e. the same clinic at the same physical location).

What is the relationship or the financial implications? As the owner of the clinic, the physiotherapist will likely benefit financially from the referral to the massage therapist. While this could be perceived as a conflict of interest, it is likely that the patient has an awareness of the relationship and financial implications based on the fact that the physiotherapist and the massage therapist are part of the same practice. However, it is never wrong to disclose the conflict of interest in order to ensure patient understanding and to allow the patient to make an informed choice about where to receive care.

B. The physiotherapist is suggesting a referral to a massage therapist at a different practice site. (i.e. at a clinic in a different physical location)

What is the relationship or the financial implications? Again, as the owner of the clinic, the physiotherapist will likely benefit financially from the referral to the massage therapist. Even though the physiotherapist owns both clinics, in this circumstance, the physiotherapist and massage therapist are not at the same location and a referral to the massage therapist could not be considered to be a conflict of interest. In this circumstance, it would be important to disclose the conflict of interest and allow the patient to make an informed choice about where to receive care. The physiotherapist should follow the steps outlined in Fig. 2 (i.e. disclose the conflict of interest; offer alternatives for care; allow patient choice; reassure that there will be no effect on care; and document appropriately).

C. Does it matter if the massage therapist pays a percentage of profits in exchange for the use of space?

How might others perceive the situation? In this scenario, regardless of the physical location, the lease

arrangement is tied to volume of services provided and the amount of profit earned by the massage therapist. By referring patients to the massage therapist, the physiotherapist is generating income which could be perceived as referral for profit, regardless of the intent. This type of volume-related agreement should be avoided. Lease agreements should relate to the fair market value for the space.

3. At a recent seminar a physiotherapist met and became friendly with a paramedic...

Since that time, the paramedic has been giving out the physiotherapist's business card to the people attended to following an MVA. The physiotherapist has seen an increase in his business. The paramedic is now asking the physiotherapist to pay him \$10/referral to continue. What are the issues? What is the relationship? In this case the paramedic and physiotherapist are casual acquaintances and there likely is no conflict of interest based on the relationship alone.

What are the financial implications? While the original arrangement (i.e. the paramedic giving out the business card on his own initiative) may have been appropriate, paying the paramedic a referral fee to continue would place the physiotherapist in a conflict of interest situation. It is likely to be perceived that the referral is motivated by financial gain and that the physiotherapist's judgment - as to whether treatment is needed - may be influenced or compromised by the desire to recover that fee. Referral for profit is not permitted.

4. A physiotherapist is opening a private practice and has found a location in a medical office building...

The building is owned by another health care provider. The rent being proposed is nearly double what it would be for a comparable space nearby. The owner is justifying the expense as she will be sending a lot of referrals to the physiotherapist. Are there any issues with this situation? How might others perceive the situation? This situation is similar to the one in #3 above and it could be perceived that the physiotherapist is paying for referrals. Even though in this circumstance the physiotherapist is not paying for the referral directly but rather is indirectly paying for the referral in the form of rent that is higher than market value, a reasonable person might perceive a conflict of interest.

Giving and Receiving Gifts

5. What is acceptable when giving gifts to potential referral sources?

How might judgment be affected? When considering a gift to a potential referral source, consider how the gift will impact on the judgment of both the giver and receiver – neither the giver nor the receiver should feel obliged to do something in return. If the receiver feels pressured to provide referrals as a result of the gift, then the gift could be impacting their judgment and referrals may no longer be made solely in the best interest of the patient.

How might others perceive this situation? Additionally, when giving gifts to potential referral sources it is also important to consider how others may perceive the situation. Gifts beyond those of a token nature may be perceived as an attempt to pay for referrals. Remember even the perception of a conflict of interest should be avoided.

6. What about receiving gifts from patients?

How might judgment be affected? When it comes to receiving gifts from patients, the same principles apply i.e. neither the giver nor receiver should feel obliged to do something in return. Furthermore, physiotherapists have an added duty to respect and maintain appropriate boundaries given the therapeutic relationship.

Treating Relatives, Employees or Others

7. A physiotherapist co-owns a clinic in partnership with a physician. The wife of the physician has tennis elbow and is seeking treatment from the physiotherapist...

A. Should the physiotherapist treat the physician's wife? How might the physiotherapist's judgment be affected? The physiotherapist should carefully consider whether his judgment could in any way be compromised given the relationship between himself, the patient and the patient's husband (his business partner). Would the physiotherapist be tempted to provide additional or "extra special" treatment in order to impress either the patient and/or her husband (his business partner)? Perhaps the physiotherapist might be tempted to provide an abbreviated form of treatment thinking that it was an imposition? Would the physiotherapist recognize the signs or symptoms of a serious disorder or disease should they present during the course of treatment or would he subconsciously dismiss them as not possible because he is too close to the situation? These and other questions require serious consideration in order to make a decision and will depend on the specific circumstances. The physiotherapist would need to make his own decision and be prepared to justify his actions.

B. Should the physiotherapist provide services for free?

What is the relationship? Physiotherapists are expected to refrain from providing services to related persons (unless no fees are charged and the relationship is disclosed to all parties involved in the care). By definition, the wife of a business partner is not a related person (*) and if the physiotherapist chose to provide treatment, he could be entitled to receive payment for services.

How might others perceive this situation? If the physiotherapist wanted to bill a third party payer for the treatment fees, consider how the payer might perceive the situation. Would the payer have concerns about the relationship? In this circumstance, disclosure to the payer about the relationship would be appropriate to prevent any perception of conflict of interest.

** See definition of "related person" in the definitions section of this guide.*

Selling Products or Adjuncts to Treatment

8. A physiotherapist with a special interest in treating back and neck injuries discovers a line of products – neck pillows, back supports, ergonomic seating etc. – that are particularly helpful for her patients...

The physiotherapist would like to sell these products in her clinic not only to enhance her patient's ability to access these products but also as a profit-making aspect to her business. What are the financial implications? The physiotherapist clearly intends to benefit financially from the sale of these products, and while it is permissible to profit from the sale of products or equipment, the patient has a right to make an informed choice regarding that purchase and to understand any financial benefit to the physiotherapist. In order to manage the conflict of interest, the physiotherapist should follow the steps outlined in Figure 2 (i.e. disclose the conflict of interest; offer alternatives; allow patient choice; provide reassurance that there will be no affect on their care; and document the discussions). In this situation, it is also important that the physiotherapist ensure that the products are reasonably priced based on the type of product, the actual cost of the product, and the typical mark up for such a product. (see also Fees & Billing - FAQ 5 in this guide).

Self-Reflection Exercises

In this section a work sheet and sample scenarios are provided to allow physiotherapists the opportunity to reflect and determine how they as individuals would respond to the scenarios provided. A work sheet is provided to assist in exploring the following potential conflict of interest scenarios. For many of the scenarios there will be no clear answer and your response will depend on individual circumstances. The intent is not to provide answers to the scenarios but to provide questions for physiotherapists to explore as they become more familiar with potential conflict of interest situations and discover for themselves the best way to respond.

1. Your employee's son was involved in a car accident. You assessed the son as a favour to the employee and to offer an opinion on the kinds of care the son might need. Now the employee is asking you to fill out the treatment plan to submit to the insurer. What will you do?
2. Your spouse's uncle has been accepted into the interdisciplinary Day Hospital program where you work. You are the only physiotherapist for the program and there are no other similar programs available in your community. What will you do?
3. Your brother has been complaining of back pain for some time and you have been recommending that he seek treatment from a physiotherapist, but he is unwilling to see anyone but you. You are considering providing treatment and you intend to keep a chart for him documenting his treatment sessions. What other issues should be considered? Can you bill his extended health insurance for the treatment?
4. You have been asked to donate \$1,000 to sponsor a golf tournament for a group of local physicians. As a result of your sponsorship all golfers will be given a gift bag that will include a referral pad with your clinic information pre-printed on the pad. You know that a number of physicians who work in the same medical building where you just opened a clinic will be attending the tournament and you could really use their business. What will you do?
5. A physiotherapist with many years of experience in assessing and prescribing specialized seating leaves her hospital employment and becomes a representative for a newly established company that sells specialized seating and equipment. The physiotherapist will be interacting with the staff and patients at the hospital where she formerly worked demonstrating new products that the hospital and/or patients are considering for purchase. Are there any issues?
6. You work on the inpatient ward of a hospital but also provide private services to individuals in their homes after hours as a separate business. One of your private patients has recently been admitted to the hospital where you also work. The patient was admitted for a condition unrelated to the one you have been treating him for at home. The patient wants you to continue to see him privately while he is in hospital. Another physiotherapist will be providing care for the condition for which he was admitted. Is this a conflict of interest? What else should you consider?

Worksheet for Self Reflection Exercises

Description of Issue:		
Questions to Ask	Description of circumstances and potential responses	Additional resources required?
What is the relationship?		
What are the financial implications?		
How might judgment be affected?		
How might others perceive the situation?		
How to ensure transparency and understanding?		
Possible alternatives		
Other considerations		
ACTION TAKEN		Follow Up required

Definitions

Benefit:

Any gift(*) (financial or non-financial), advantage, or payment of any kind, whether direct or indirect, including:

- monetary payments, other than those that pay for services rendered at fair market value (e.g. paying an excessive fee for a report from a referral source)
- rebates, credits or discounts on, or reimbursement of the cost of goods or services
- the receipt of goods or services at no charge or a cost which is less than prevailing market value
- the distribution of goods or services at no charge or a cost which is less than prevailing market value
- the payment or reduction of any amount of any debt or financial obligation
- the receipt of any consultation fee or other fees for services rendered
- loans, where the interest rates or repayment terms do not reflect prevailing market trends

Related person:

A related person is a person related by blood, marriage, partnership or adoption, or a corporation in which a registrant or a related person has an interest (unless the interest is ownership of shares of a publicly traded corporation that the registrant or the related person does not directly or indirectly control). For more specificity:

- Persons are related by blood if one person is the child or other descendent of the other or one person is the brother or sister of the other
- Persons are related by marriage if one person is the spouse of another or is the spouse of a person who is connected by blood relationship to the other
- Persons are spouses if they are married to each other or are living in a conjugal relationship outside marriage and have cohabited for at least one year, are together the parents of a child or have entered into a cohabitation agreement under the Family Law Act
- Persons are partners if they are either of two persons who have lived together for at least one year and have a close personal relationship that is of primary importance in both persons' lives
- Persons are related by adoption when one person has been adopted, either legally or in fact, as the child of the other or as the child of a person who is connected by blood relationship (other than as a brother or sister) to the other.

Advertisement:

Any message communicating information about a registrant's practice and/or the professional services he or she offers, the content of which he or she controls or influences, directly or indirectly, which is expressed in any language with the intent to influence choice, opinion or behaviour and communicated in any public medium to anyone.

Public Medium:

Any form of communication that, generally speaking, is equally available to anyone who chooses to use it and that is directed to the public, or a specific subsection of the public rather than to an individual person or persons. For example, radio, television, websites (but not individually targeted emails), flyers (provided they are distributed publicly and not individually targeted), and the yellow pages are all examples of public media.

() This is not intended to prohibit a physiotherapist from accepting or giving items of token value, given as a form of appreciation.*

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