



## Guide to Standard of Practice: Conflict of Interest

The College's Standard of Practice: Conflict of Interest establishes the College's expectations for Registered Denturists in regards to the anticipation, recognition and management of situations that present actual, potential or perceived conflicts of interest. This Guide to the Standard describes some examples of conflict of interest situations and the application of elements of the Standard.

### What is a conflict of interest?

A conflict of interest exists when a personal interest or that of a family member, or a corporation over which you or that family member has substantial control, would reasonably affect a denturist's professional judgment. Not all instances of conflict of interest involve a financial benefit.

### What is a perceived conflict of interest?

This is a situation where the *appearance* of a conflict of interest exists, where others may believe there is a conflict that results in erosion of the trust, confidence and respect of the individual perceived to be operating in a conflict of interest situation.

### What is a potential conflict of interest?

This is a situation that has all of the necessary components for a conflict of interest (i.e. competing interests) but an actual conflict of interest has not been realized or is not perceived to exist.

### What are some examples of conflicts of interest?

Some examples of conflicts of interest are as follows:

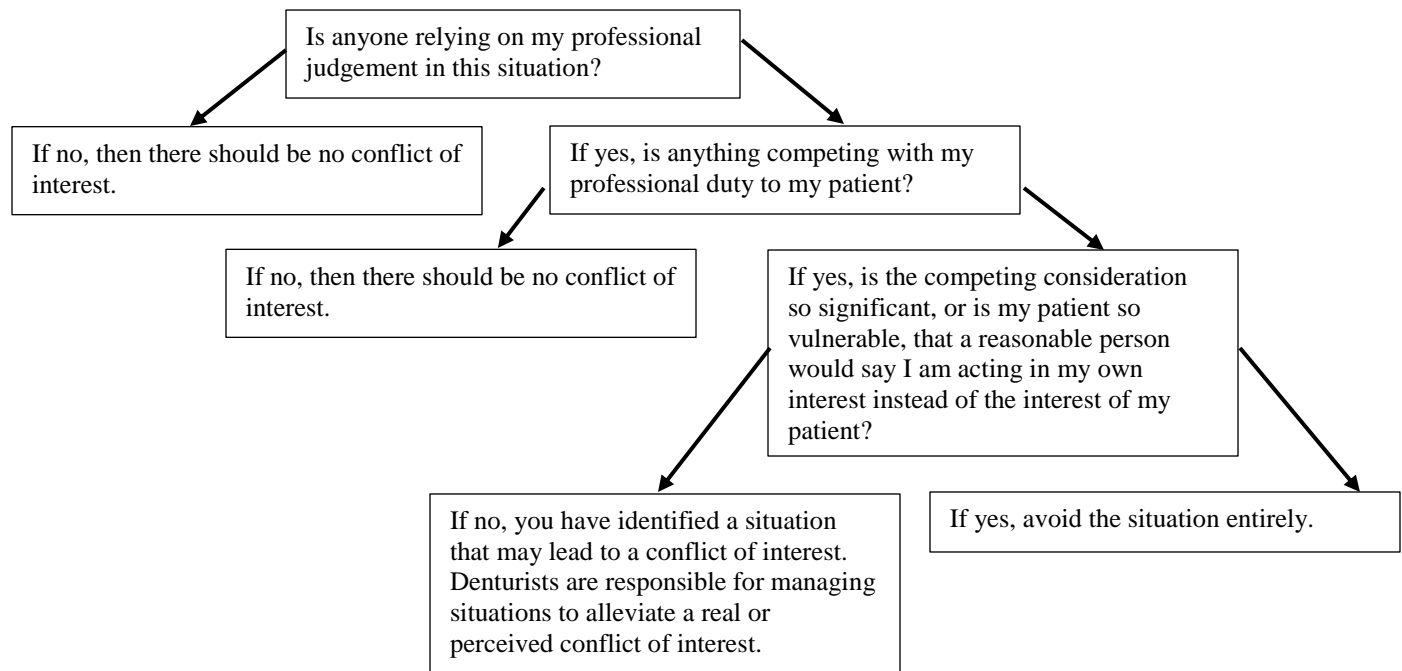
- Splitting fees with a person who has referred a patient;
- Receiving benefits from suppliers or persons receiving referrals from the denturist;
- Giving gifts or other inducements to patients who use the denturist's services where the service is paid for by a third party;
- Offering or giving a financial incentive or other benefit for receiving a patient referral;
- Receiving compensation directly from a student or examination candidate working under the supervision of the denturist, where the supervision involves providing an assessment or evaluation of the student or examination candidate's competence;
- Working under the direction of an unregistered person who can interfere with professional decisions; and
- Using or referring a patient to a business in which one has a financial interest.

Determining whether or not a conflict of interest exists in these examples relies on an evaluation of the reasonableness of the circumstances.

### How do I identify or anticipate real, potential or perceived conflicts of interest?

Using professional judgement and knowledge, denturists must identify potential and perceived competing interests, including their own self-interests. All health professionals are responsible for recognizing and anticipating these situations. The following framework may be used to assist denturists in identifying conflicts of interest:

- 1) **The Personal Interest Test:** Am I receiving any personal benefit? The dentist has a personal interest when he/she receives any personal benefit from an action or decision made with respect to patients. Benefits can include, but are not limited to, gifts, advantages, discounts, status, rebate, credit and preferential treatment. The interest may be monetary or non-monetary and could be direct (to the dentist) or indirect (to someone associated with the dentist, such as a family member or corporation). For example, a dentist who receives a benefit, such as money or free advertising, for referring patients to a dentist would be directly involved in a conflict of interest situation. The patient is relying on the denturists' professional judgement to provide a referral to a health professional that would best serve the needs of the patient, not those of the dentist or dentist. Additionally, patients should only be referred to a dentist because they need their services and not because the referring person will be receiving a benefit.



- 2) **The Professional Judgement Test:** Will this action compromise my objectivity? Denturists must always consider whether personal interests influence, or have the potential to influence, their professional objectivity related to an action, or a decision about a program, product and/or treatment recommendation. For example, denturists cannot use their professional status to promote products commercially, even if they are not being paid. Denturists should not be making any clinical recommendations in the absence of an appropriate, individual patient assessment. Denturists may give advice on products and services provided that this advice is based on professional judgment regarding a patient's individual needs following a proper assessment.
- 3) **The Improper Influence Test:** Am I changing my actions so that I can realize a benefit? A personal interest can improperly influence a dentist. For example, denturists must provide reasonable treatment plan options to their patients, even if the patient may seek service elsewhere. The dentist must not change their actions (i.e. provide or not provide a treatment option) so that they can realize a benefit (i.e. not referring a patient to another health care practitioner so that the dentist can provide the services).
- 4) **The Reasonable Person Test:** What would a reasonable person think? Always consider what a colleague or neutral observer would think of the situation. Could a reasonable person conclude that the dentist is making a decision that was influenced by the promise of personal gain? Whether or not the dentist's professional judgement is actually compromised does not matter. The fact that a reasonable person might perceive a conflict of interest is enough. Often a

perceived or potential conflict of interest can be as significant as a real conflict of interest. For example, if a dentist refers a patient to a health store owned by the dentist's spouse, a reasonable person would question whether the practitioner recommended that product because the patient needed it or because the referral would benefit the dentist's spouse.

### **How do I manage conflict of interest situations? What kinds of safeguards can be applied to eliminate concerns over these situations?**

In circumstances where a conflict of interest cannot be avoided or such action may not be in the best interest of the patient, dentists are expected to effectively manage the conflict while demonstrating professional integrity and care for the patient. Managing a conflict of interest is important because it encompasses the principles that support the values of honesty, fairness, accountability and transparency. Engaging in reflective practice and critical thinking can help health professionals identify the measures that can be used to manage situations that may lead to conflict of interest.

Some conflicts of interest are prohibited outright. However, there are certain circumstances where safeguards could remove the concern. In most cases, conflict of interest scenarios can be effectively managed using the **DORM** Principle:

**Disclosure:** at the earliest opportunity, the dentist should disclose the nature of the conflict to the patient;

**Options:** inform the patient of his/her alternatives and assist in arranging for alternatives where requested;

**Reassurance:** reassure patients that choosing another product or services will not affect the quality of professional care to them;

**Modification:** making small modifications can remove or greatly reduce the potential for conflict of interest.

### **How do I maintain the professional Dentist-Patient relationship when avoiding or managing a real or perceived conflict of interest?**

In order to maintain a professional Dentist-Patient relationship, dentists must recognize that they are in a position of authority and have a duty to meet the best interest of the patients who rely on them. Dentists have access to sensitive, personal, information and often work with people who may be vulnerable in many different ways. Because of this, dentists have a professional responsibility to uphold the fundamental values of respect and trust.

Dentists are permitted to practice dentistry in a way that enables them to earn an income from their professional knowledge, education and experience. However, certain kinds of businesses and business relationships or arrangements are inherently inconsistent with dentists' professional obligations to their patients. In other cases, the relationship or arrangement is only acceptable if appropriate safeguards, as discussed above, are put in place.

### **Why do I have to document suspected conflicts of interest?**

Dentists must document all suspected conflicts of interest and keep that information in their records. When requested, Dentists must provide the College with any documents, explanations or information regarding a suspected conflict of interest. Such information and documentation assists the College in determining if there is a conflict of interest of concern.

As an example, consider a situation where the College receives information that a dentist is making "unusual" payments to a nursing home that refers patients to the practitioner. The College may ask for an explanation of those payments and any related financial records. This information would assist the College in determining whether or not a conflict of interest exists.

## **Is offering an incentive considered a conflict of interest?**

Denturists must not offer incentives for individuals to become patients, remain patients and/or refer patients to them. Denturists must not promote or advertise their practice by offering incentives, including gifts, rebates, credits or other benefits.

## **Can I fee or income-split?**

In some practice arrangements, a denturist might not receive the entire fee paid by the patient or a third party for providing professional services. Denturists may share revenue with one or more of the following:

- i. another member of the College;
- ii. a member of another regulated health profession;
- iii. a health professional corporation; or
- iv. any other person if there is a written contract with the person stating that the member will have control over, and be responsible for, his/her own professional decisions, and for maintaining professional standards.

The payment or receipt of money solely as a result of a patient referral is prohibited.

### **Conflict of Interest Case Scenario No. 1**

Michelle, a denturist, owns a practice down the street from a retirement home. She has been practicing there for less than a year. She is trying to build her practice and wants people to know she is new to the neighbourhood. Michelle offers to give the Administrator of the retirement home a free cruise to the Mediterranean in return for having him and his staff refer patients to her practice. The Administrator of the retirement home thinks this is a great idea and offers Michelle a free large screen television if she also refers patients to his retirement home.

While this may seem like a good business decision, Michelle is in a conflict of interest for two reasons:

- 1) Michelle cannot give a free trip to the Administrator of the retirement home in order to get referrals as this would constitute a collateral (or side) benefit. Patients should be referred to Michelle because they need her services and not because the referring person is getting a free cruise.
- 2) Michelle cannot accept a free television as this would conflict with her duty to refer patients to a retirement home only if she honestly believed that this would be in their best interest. The referrals should be based on professional judgment and not on any 'kickbacks' she may receive.

### **Conflict of Interest Scenario No. 2**

Nick is a denturist who has a busy and successful practice. Recently, he began using a new acrylic tooth that he has noticed appears quite natural for his patients. They are quite realistic. He calls the company to tell them his feedback from his patients, that he likes using the product and to place an order for more. The company asks him if he would like to be in a new advertising campaign they are going to put into some magazines aimed at retired people. Nick would repeat what he has just said so that the company could promote the teeth. The company plans to put a picture of Nick in the advertisement and identify him by name and title. The company cannot pay Nick because they are still a new company and don't have the budget for it. Nick thinks, why not? He likes the product and, since he is not getting paid, he is not inappropriately benefiting from the relationship.

Unfortunately, this would still likely be a conflict of interest and would be professional misconduct. Denturists cannot use their professional status to promote products commercially, even if they are not being paid. Nick can still benefit from the advertisement in some indirect manner (for example, he may have more patients from those who see the advertisement). Also, without making any observations or assessments of an individual, the denturists should not be making any sort of clinical recommendations. Nick can give advice on products and remedies, including choosing what type of tooth to use, provided that it is based on professional judgment regarding a patient's individual needs through proper assessment.

## **Legislative References**

*O. Reg. 854/93: Professional Misconduct, paragraph 8* <http://www.ontario.ca/laws/regulation/930854>

## **References**

*Standard of Practice: Conflict of Interest*, College of Denturists of Ontario.

*Important Legal Principles Practitioners Need to Know*, Jurisprudence Handbook, College of Denturists of Ontario, 2017.

## **Related Standards of Practice**

*Standard of Practice: Advertising*