

# GUIDELINES

August 2002\*

## Conflict of Interest

\*(a reprint of those issued in June 1995)

*The Guidelines of the Royal College of Dental Surgeons of Ontario contain practice parameters and standards which should be considered by all Ontario dentists in the care of their patients. It is important to note that these Guidelines may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.*

### INTRODUCTION

Simply put, a conflict of interest is created when you put yourself in a position where a reasonable patient could conclude that the exercise of your professional expertise or judgement may be influenced by your personal financial interest. It is not necessary for your judgement to be actually compromised. If the facts are such as to create in a reasonable person's mind the possibility that your judgement may be even slightly affected, then that constitutes a perceived conflict of interest.

Whether actual or perceived, conflicts of interest give the public the impression that their care or the cost of their care may be compromised by you. It is for this reason that a conflict of interest must be avoided. As a result, acting while having a conflict of interest may constitute professional misconduct.

Dentists are entitled to profit from the use of their training and experience in providing professional services to patients. Attempts to obtain additional benefits from other arrangements is likely to constitute a conflict of interest. As an example, benefits obtained as a result of the following actions must be avoided:

- the referring of patients;
- the purchasing or selling of dental appliances;
- the purchasing, selling, or supplying of drugs.

Furthermore, you cannot avoid having a conflict of interest by structuring the arrangement to move the benefit to a family member or a corporation.



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## EMPLOYMENT

With limited exception, dentists should not enter into arrangements with others which may be taken as affecting his/her judgement relative to a patient. Dentists are, therefore, not entitled to be employed except by other registered dentists or by institutions such as hospitals, universities, governments or community health centres.

## FEE OR INCOME SPLITTING

Dentists may not fee or income split with anyone other than:

- an associate – a registered dentist who engages in the practice of dentistry as an employee of yours;
- another registered dentist who, while not employed, comes to your office to provide services to your patients as an independent contractor;
- a registered dentist who engages in the practice of dentistry as your partner;
- a registered dental hygienist who engages in the practice of dental hygiene within your dental practice.

As a result, contractual arrangements such as a lease or use of premises or equipment which provides for fee or income splitting creates a conflict of interest. This would prevent a dentist who rents space or equipment from paying rent based on his/her billings.

## CONFLICTS

Some actions on the part of dentists may constitute a conflict of interest which may be permitted if you take appropriate steps to ensure that your patients are fully aware of the circumstances. For example, if you have a financial interest in a dental device – perhaps you invented it and therefore, every time you use it, you are benefiting. This is technically a conflict of interest. To avoid problems associated with this arrangement, you must:

- disclose your interest to the patient in advance of providing the services which give rise to the conflict;

- ensure that your treatment respecting the use of that product is in accordance with the standards of practice of the profession.

You must ensure that the treatment is in fact the appropriate treatment for the patient; and one for which the patient could well have been provided with by any other dentist who was deciding on what the appropriate treatment would be – and who did not have a conflict of interest.

A further example may relate to a circumstance where you or a family member owns, controls or has an interest in a commercial dental laboratory. In this circumstance, if you wish to use that laboratory, you must ensure:

- that you disclose to your patients the financial interest which you or your family have in the laboratory prior to providing the services which would give rise to the conflict;
- that the dental appliance used is in accordance with the standards of practice of the profession;
- that the cost of the appliance is the same as what the cost would have been from a totally independent laboratory.

Since dentists are not entitled to make a profit on the cost of dental appliances, you cannot, through a conflict of interest, indirectly make a profit by having your non-arm's length laboratory charge you a fee greater than that which an arm's length laboratory would have charged.

Some conflicts of interest are so remote that they need not be disclosed. For example, if you are a shareholder of a publicly traded corporation which you do not directly or indirectly control, then the fact that that corporation may be in the business of selling dental products does not require you to disclose your financial interest. You are always responsible, however, to ensure that your use of the product, in the circumstances, is appropriate.