

# MEDICAL COUNCIL OF CANADA

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## C L E O

### Objectives of the Considerations of the Legal, Ethical and Organizational Aspects of the Practice of Medicine

[Those CLEO Objectives that are applicable to practice under supervision and therefore will be assessed by the MCCQE Part I, have been identified by *italicized* and bold print. All of the CLEO Objectives apply to MCCQE Part II. The CLEO Objectives are available on the MCC web-site as well as a hard copy from the MCC offices. The CLEO Objectives are being integrated into the clinical headings of the existing (revised) edition of the MCC Objectives. Note: From 1999 onward, all MCC Objectives will be reviewed and updated on an on going basis as opposed to the 5-year process used previously.]

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## 2. INTRODUCTION

There are three distinct sections to CLEO, focusing in turn, on the legal, the ethical and the organizational aspects of the practice of medicine. Although there is considerable overlap between topics covered in the three sections, they are best approached separately, and cross-referenced. Each section has been developed separately, and has its own contribution to the safe practice of medicine. For each of these aspects, there would be a different response to an infraction. Understanding the differences between the legal, the ethical and the organizational segments will help you to get the most out of this document.

Medical ethics arise from the traditions of the profession, philosophy, and our social standards. They are expressed as principles and concepts, which lead to more specific guidelines or codes for particular situations. Ethical problems tend to be resolved through prolonged public debate and discussion. Breaches of the ethical guidelines are generally dealt with within the profession, but may also be the concern of health care institutions as well.

The legal section is based on the statutory and case laws relevant to the practice of medicine. Laws are specific, not conceptual. Legal requirements may be set out by the Provincial and Federal legislatures or determined by the courts as they make rulings on particular cases. This document tries to cover the area of law that is in effect in most provinces, although occasional reference is made to notable laws that may only apply in identified provinces. The physician entering practice will want to be sure of the specific legal requirements of the Province in which they are licensed. A breach of a relevant law would be dealt with legally.

The third section is on organizational aspects of the practice of medicine. Physicians in Canada are practising in a complex health care system. They have numerous professional obligations, and interact with many other groups responsible for all aspects of health care. This section is written from the point of view of what the physician entering practice will need to know. Breaches of expected standards in these aspects may be the concern of the college, the courts, or the health care institutions, or may simply result in inefficiencies and frustrations.

The Medical Council of Canada hopes that candidates will be familiar with much of CLEO, though it may not have been formally taught. To assist in understanding the basis of these objectives, references to key print and electronic resources are included either in the preambles or following each objective set. Cross references to related topics are listed in the index.

Please take time to become familiar with the layout and the content of CLEO. MCC welcomes your feedback and your suggestions.

### 3. GLOSSARY

**ACMC:** Association of Canadian Medical Colleges

**Autonomy:** The moral right to choose and follow one's own plan of life and action.

**Beneficence:** The moral duty to help persons in need.

**CFPC:** College of Family Physicians of Canada

**CMA:** Canadian Medical Association

**CMAJ:** Canadian Medical Association Journal

**CMPA:** Canadian Medical Protective Association

**Capacity:** The patient's ability to understand information relevant to making a decision. Capacity determinations are made by physicians, sometimes using the help of psychiatrists and other members of the health care team.

**Competence:** This term is frequently used interchangeably with capacity. Strictly speaking it is a legal term denoting the right to make a decision. The legal presumption is that all adults are competent, and only a judge can rule a person incompetent.

**Conflict of interest:** A set of conditions in which professional judgement concerning a primary interest (such as a patient's welfare or the validity of research) tends to be unduly influenced by a secondary interest (such as financial gain). (Thompson DF, Understanding financial conflicts of interest. *New England Journal of Medicine* 1993; 329:573-576).

**Consent:** The autonomous authorization of a medical intervention by individual patients. Consent has three components: disclosure, capacity, and voluntariness.

**Disclosure:** The provision of relevant and material information regarding a decision by a doctor to a patient (and its comprehension by the patient).

**Discrimination:** An act, practice or policy that differentiates between, or otherwise treats persons in a different way, on the basis of such status as gender, age, nationality, religion, race, financial means, sexual orientation, etc.

**Ethics:** The discipline dealing with principles and values defining what is good and bad, and with duties and obligations for various groups.

**Euthanasia:** A deliberate act undertaken to end the life of another person in order to end suffering; the act is the cause of death.

**Fiduciary:** Person to whom property or power is entrusted for the benefit of another.

**Fiduciary obligation:** The obligation to promote the best interests of persons who have entrusted themselves to the fiduciary (e.g., the physician); an obligation of the highest loyalty, fidelity and trust.

**Justice:** The fair distribution of benefits and burdens within a community.

**LMCC:** Licentiate of the Medical Council of Canada

**MCC:** Medical Council of Canada

**MAINPRO:** (maintenance of proficiency) Is the College of Family Physicians of Canada program that governs the continuing medical education of its members.

**Material risks:** Those that are common, and those that are serious, even if uncommon.

**MOCOMP:** (maintenance of competence) Is the Royal College of Physicians and Surgeons of Canada program that monitors the continuing medical education of its members.

**Morals:** The practice of ethics in everyday life.

**N.G.O.:** Non-Governmental Organization

**Non-maleficence:** The duty to refrain from doing harm.

**Physician-assisted suicide:** The act of intentionally killing oneself with the assistance of a physician who deliberately provides the knowledge, means, or both.

**Profession:** A self-regulating organization that controls entry by certifying that candidates have necessary knowledge and skills, and that morally must be used to benefit society. (Beauchamp & Childress, Principles of Biomedical Ethics, 1994, p. 4-7).

**RCPSC:** Royal College of Physicians and Surgeons of Canada

**Resource allocation (and rationing):** The distribution of goods and services to programs and people; rationing is the systematic distribution of goods to specific individuals in conditions of scarcity.

**Security of the person/inviolability:** The fundamental right of all persons to respect for and non-violation of their body and person, be it through physical, psychological or other means.

**VON:** Victoria Order of Nurses

**Voluntariness:** The patient's right to come to a decision freely, without undue pressure including force, coercion, or manipulation

## **4. ETHICS**

### **4.1 Ethics of Medicine**

Medicine is an ethical profession. It is based on ethical principles and bound by codes, both explicit and implicit, regarding the relationships between physicians and their patients, their profession, and society at large.

Candidates must be familiar with codes set out by the Canadian Medical Association and the various provinces, and understand their ethical foundation.

The key ethical principles which provide the basis of ethical codes, and may be invoked in the resolution of ethical dilemmas include: respect for autonomy, justice, beneficence and non maleficence, among others. Candidates should be able to identify the relevant principles at issue in the analysis or resolution of an ethical case.

Ethical dilemmas faced by physicians are often matters of social interest and controversy. An ethical physician must be prepared to consult and seek input or guidance into such decisions, including the participation of formal bodies, such as ethics committees to assist in resolution of situations where the principles are in conflict.

#### **References and Resources**

CMA Code of Ethics

CMAJ series: Bioethics for Clinicians 1996-97

Canadian College of Family Physicians

Royal College of Physicians and Surgeons of Canada

Various national specialty and sub-specialty societies and associations

Quebec Code of Ethics of Physicians

Various provincial licensing bodies

Canadian Human Rights

## 4.2 Confidentiality

### Issues

- Trust in doctor patient relationship
- Patient's right to confidentiality
- Legal obligations to disclose to public authorities
- Disclosure to third parties
  - ◆ with consent of patient;
  - ◆ duty to notify of planned or required disclosure; and
  - ◆ incapacitated patient.
- Rights of minors
- Right to access information only of patients under care, and with consent of patient
- Duty to warn (individuals discovered to be at risk through disclosures made in confidence)

### Rationale

Physicians receive confidential information from and regarding their patients, which they are bound not to disclose. This obligation is the foundation of confidence in the doctor patient relationship. The physician is obliged to recognize the legitimate interests and rights of third parties to patient information, and to disclose this information in an ethical fashion. Electronic communication technology increases the risk of disclosure of confidential information. Candidates will need to be aware of evolving standards and precautions in this regard.

### Detailed Objectives

- ***To explain the basis for the physician's obligation to maintain confidentiality.<sup>1</sup>***
- ***To explain reasonable precautions to maintain confidentiality (verbal, telephone, fax or e-mail communication; charts, written or computer stored; and educational or research rounds or presentations).***
- ***To recognize situations in which third parties have a legitimate interest and right to information:***
  - ◆ ***legal requirements in the interest of public health;***
  - ◆ ***legitimate interest of 3rd parties (e.g., Insurance companies); and***
  - ◆ ***duty to warn threatened individuals.***
- ***To recognize reasonable limits to disclosure, and reveal only the relevant and necessary information, in a situation requiring disclosure to a third party.***
- ***To recognize duty to advise patients of known risks of voluntary disclosure (e.g., Risks of disclosure of HIV status).***
- ***To recognize the need to advise patient of obligatory disclosure of information.***
- To transmit required information in a timely fashion.
- ***To recognize and seek guidance where harm from disclosure balances harm of maintaining confidentiality.***

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<sup>1</sup> Those CLEO Objectives that are applicable to practice under supervision and therefore will be assessed by the MCCQE Part I, have been identified by *italicized* and bold print. All of the CLEO Objectives apply to MCCQE Part II.



### 4.3 Consent to Investigation or Treatment

#### Issues

- Expressed consent, oral or written
  - ◆ current
  - ◆ advanced directives
- Informed choice (disclosure of material risks and alternatives)
- Voluntariness (freedom from coercion)
- Consent for emergency treatment
- Capacity to give consent
  - ◆ impairment
  - ◆ consent by minors
  - ◆ assessment of capacity
- Implied consent
- Substitute decision makers or proxies
- Refusal or revocation of consent

#### Rationale

Respect for patient autonomy requires the patient's informed choice, consent, and participation. Conversely, the informed patient's right to refuse must be respected, even when it may seem medically unwise. Individuals must be capable of understanding the relevant risks, benefits, and alternatives, and the consequences of declining. The choice should be made free of any coercion. Patients unable to give informed consent are entitled to have their interests protected through an appropriate substitute decision making procedure.

#### Key Objective(s)

- Candidate will communicate with a patient or their legitimate delegate, so as to obtain their consent or refusal to a given investigation or treatment.

#### Detailed Objectives

- *To explain the legal and ethical basis for consent.*
- *To demonstrate awareness of process for the assessment of capacity to give consent, and be able to conduct such an assessment.*
- *To recognize factors which can alter capacity (e.g., disease, drugs, depression).*
- *To identify appropriate substitute decision maker, or the process to determine that individual.*
- *To communicate clearly information relevant to informed consent (what a reasonable person would want to know in a given circumstance).*
- *To identify reasonable steps to ensure understanding of information: can the patient explain the medical problem, and the proposed treatment or test.*
- *To determine free choice, and absence of coercion.*
- *To recognize the patient's right to refuse or revoke consent without prejudice to subsequent treatment.*
- *To recognize and identify ways of determining the appropriate balance between the emerging autonomy of a minor with the legitimate interests of parents or child welfare authorities.*
- *To recognize legal requirements in such cases.*
- *To recognize the legitimacy of the intentions of impaired patients as they may have been expressed (advanced directives).*
- *To recognize the duty to provide necessary emergency care where consent is unavailable.*
- *To recognize the need to provide non-consensual treatment in the public interest; e.g., involuntary admission for patients whose conditions possess an unacceptable risk to themselves or others.*
- *To recognize the role of religious belief in obtaining patient consent and the provision of treatment.*

## 4.4 Truth Telling

### Issues

- Ethical basis for a patient's right to know
- Consequences of violating a patient's right to know
- Disclosure of relevant information
- Prohibition from transmitting false information
- Incomplete disclosure
- Exceptions (cultural, potential harm)

### Rationale

Respecting patient autonomy and avoiding paternalism, physicians should disclose to their patients relevant information regarding their diagnosis, prognosis, or the implications of diagnostic tests. This follows from principles of truthfulness and of maintenance of a relationship of trust.

### Key Objective(s)

- Candidates will recognize that their duty is to speak truthfully and appreciate that it may conflict with their duty to do no harm.

### Detailed Objectives

- *To understand and explain the ethical and legal basis for truth telling:*
  - ◆ *respect for patient's autonomy;*
  - ◆ *situations of inevitable disclosure;*
  - ◆ *provision of support with disclosure of difficult news; and*
  - ◆ *respect patient's need to make realistic life decisions.*
- *To recognize reasonable right of patient to know relevant information:*
  - ◆ *purpose and implications of investigations;*
  - ◆ *diagnosis and prognosis of medical condition;*
  - ◆ *risks and benefits of treatment; and*
  - ◆ *health risks to which they are exposed.*
- *To respect patients right to not know, and ascertains a patient's wishes:*
  - ◆ *identify and respect valid exceptions to truth telling;*
  - ◆ *seek consent for disclosure;*
  - ◆ *awareness of personal and cultural context and how that may influence a patient's choice; and*
  - ◆ *respects a patient's choice above that of family members.*
- *To recognize and seek guidance in situations of conflict between this and other ethical duties, particularly the duty to do no harm.*

## 4.5 Resource Allocation

### Issues

- Fair access to health care resources
- Obligation to seek best interest of patient
- Prudent use of health care resource

### Rationale

Acting in the patients best interest, it is the obligation of physicians to make appropriate health care available to their patients in a fair and equitable manner (distributive justice). There are an expanding number of treatable patients, and increasing array of expensive technology, but a finite health care resource. This leads to an inevitable conflict between the best interest of the patient and the interest of society at large. Ethical principles should guide the orderly resolution of such conflicts.

### Detailed Objectives

- *To make health care resources available to patients in a manner which is fair and equitable, without bias or discrimination.*
- To recognize situations in which allocation of resources is unfair, and seek resolution.
- To recognize or propose fair means of resolving disputes for resources:
  - ◆ primary obligation to patient;
  - ◆ rank known patients ahead of unknown or future patients;
  - ◆ use morally relevant criteria in allocating resource; and
  - ◆ consult hospital ethics committees or other responsible bodies.
- To choose interventions on the basis of best available evidence:
  - ◆ known to be effective;
  - ◆ anticipated cost benefit; and
  - ◆ avoid marginally beneficial investigations or treatments.
- *To inform patients of impact of cost restraint in a supportive way.*
- *To be prudent and avoid waste in the utilisation of scarce or costly resources.*

## 4.6 Research Ethics

### Issues

- Scientific and ethical merits of research
- Conflict of interest
- Full disclosure to informed consent
- Right of non-participation or withdrawal without prejudice

### Rationale

Physicians have a responsibility to contribute to the advancement of medical care, which may involve research participation. They also have an obligation to provide the best available care to their patients, which may be accomplished through participation in research. Physicians need to be aware of special populations for which the rules may be different, such as children, psychiatric patients, or the cognitively impaired, etc.

### Key Objective(s)

- To ensure that any research study in which their patients are involved is scientifically and ethically sound, that their patient has had full disclosure of anticipated risks and benefits, and has made an informed choice free from coercion.

### Detailed Objectives

- To identify reasonable criteria for ethical approval of research involving patients.
- ***To identify or propose reasonable steps to ensure scientific rigour of research (peer review, expert opinion).***
- To refuse to participate or enrol your patients in research which has not been scientifically and ethically evaluated.
- ***To recognize the need for fully informed and voluntary consent.***
- ***To identify additional information which should be disclosed in the course of research, as opposed to clinical consent.***
- To acknowledge and disclose any possible conflict of interest on the part of investigator.
- ***To recognize the legitimate obligation of the hospital to have all research approved through a research ethics committee.***

### Additional References

Medical Research Council (<http://wwwmrc.hc-sc.gc.ca/ethics.html>)  
National Council on Ethics in Human research

## 4.7 Physicians and Industry

### Issues

- Conflict of interest
- Place best interest of patient first

### Rationale

Physicians will in the course of their need to have ethical relationships with industries that may have areas of common interest. Physicians need to be aware of the potential for a conflict of interest, and of their primary responsibility to the patient.

### Key Objective(s)

- *Candidates should be aware of the existence of an ethical code which regulates the relationship between the profession and the pharmaceutical industry, and recognize situations which breach it.*
- *The primary obligation of the physician is to their patient. Relationships with industry are appropriate only if they do not impinge upon that responsibility.*
- Any conflicts of interest arising from a relationship with industry must be resolved in favour of the patient.
- Physicians in their practice must preserve their professional autonomy. Any potential conflict of interest must be disclosed to the patient.
- Institutions and organizations in which a physician works or holds privileges may have additional requirements regarding disclosure of potential conflict of interest.
- If a conflict of interest cannot be resolved, the physician may recommend a second opinion, or refrain from offering an opinion.

### Reference

PMAC Guidelines

Canadian Medical Association Guidelines

CMA policy statement on Physicians and Industry

Canadian Medical Association Journal 1994; 150:256A-256C

<http://www.cma.ca/inside/policybase/1994/1%2D15.htm>

## 4.8 Doctor Patient Relationship

### Issues

- Obligations and restrictions
- Conflict of interest, disclosure of personal or moral limitations
- Professional boundaries
- Physician's and patient's rights
- Care of friends and family

### Rationale

The doctor patient relationship is the fundamental basis of the therapeutic relationship. It is based on ethical and legal principles. These describe the quality of the relationship, and the obligations and restrictions inherent to it. Both the physician and the patient enjoy certain rights, responsibilities, and freedoms which determine the doctor patient relationship and the need to be kept in appropriate balance.

### Detailed Objectives

- *To recognize and demonstrate the elements in current codes which define the doctor patient relationship.*
- *The physician will place the best interest of the patient first.*
- *To establish a relationship of trust between physician and patient.*
- *To follow through on undertakings made to the patient, in good faith.*
- *To accept or refuse patients requesting care:*
  - ◆ *without consideration of race, gender, age, sexual orientation, financial means, religion or nationality;*
  - ◆ *without arbitrary exclusion of any particular group of patients, such as those known to be difficult, or afflicted with serious disease; and*
  - ◆ *except in emergency situations, in which case care must be rendered.*
- *Once having accepted a patient into care, the physician may terminate the relationship, providing:*
  - ◆ *care has been transferred; or*
  - ◆ *adequate notice has been given to allow the patient to make alternative arrangements.*
- *The physician will not exploit the doctor patient relationship for personal advantage; be it financial, academic or otherwise.*
- *To disclose the limitations to the patient where personal beliefs or inclinations limit the treatment a physician is able to offer.*
- *To maintain and respect professional boundaries at all times:*
  - ◆ *including physical, emotional, and sexual boundaries; and*
  - ◆ *regarding treatment of themselves, their families, or friends.*

## 4.9 Personal and Professional Conduct

### Issues

- Personal Conduct
  - ◆ competence
  - ◆ impairment
- Professional Conduct

### Key Objective(s)

- The candidate will be aware of the conduct expected of a physician and recognize their responsibilities if a colleague demonstrates unprofessional conduct.

### Detailed Objectives

#### 4.9.1 Personal Conduct

- *To conduct yourself in a professional manner, characterised by dignity, respect, integrity, and honesty:*
  - ◆ *possess and maintain medical expertise; and*
  - ◆ *practice competently without impairment by substances, ill health, or other incapacity.*

#### 4.9.2 Professional Responsibilities

- *To recognize responsibility of the profession in self regulation:*
  - ◆ *maintenance of appropriate standards of the profession; and*
  - ◆ *participate in peer review.*
- *To participate in learning with peers and others which may include:*
  - ◆ *students;*
  - ◆ *health care professionals; and*
  - ◆ *community or patient groups.*
- *To assist peers and others in achieving effective methods of care, in the best interests of patient well being.*

#### 4.9.3 Payment for Uninsured Services

##### Definitions

**Uninsured services**, for this policy's purpose, are:

- ◆ Those which are not covered under the provincial schedules of medical benefits as amended from time to time.
- ◆ Services to unregistered patients who are ineligible for provincial health coverage or for coverage under the reciprocal agreement among provinces.

##### Principles

- ◆ Consider, in determining professional fees, both the nature of the service provided and the ability of the patient to pay, and be prepared to discuss the fee with the patient.
- ◆ Avoid any personal profit motive in ordering drugs, appliances or diagnostic procedures from any facility in which the physician has a financial interest.
- ◆ The patient's best medical interest must always be foremost.

#### 4.10 Controversial and Evolving Ethical Issues in Practice

##### Issues

- Euthanasia
- Physician assisted suicide
- Maternal-fetal conflict of rights
- Advanced reproductive technology
- Fetal tissue
- Abortion
- Genetic testing

##### Rationale

Physicians will be required to advise their patients on evolving moral issues regarding tests or treatments that may conflict with their own, or with morally prevalent values. In some cases the implications of disclosure of test results may be unknown, or may involuntarily involve other family members or children.

##### Detailed Objectives

- *The candidate will be aware that they may be asked to comment on unresolved or controversial ethical issues, and will be able to name and describe relevant key issues and ethical principles.*
- *When confronted with such a situation, candidates will:*
  - ◆ *discuss in a non-judgemental manner;*
  - ◆ *ensure patients have full access to relevant and necessary information;*
  - ◆ *identify if certain options lie outside their moral boundaries and refer to another physician if appropriate;*
  - ◆ *consult with appropriate ethics committees or boards; and*
  - ◆ *protect freedom of moral choice for students or trainees.*



## 5. Applicable Basic Principles of Law

### Issues

- Relationship between law and ethics
- Principles and provisions of law also apply to the practice of medicine

### Rationale

Society's laws regulate many aspects of human conduct, including medical practice. The principles and provisions of law applicable to the practice of medicine have a number of sources. There is significant overlap between physicians' "generally-recognized" ethical obligations in the Canadian context and the requirements of the law with regard to medical practice. (Note: it is recognized that different cultural approaches may lead to differing views regarding applicable ethical mores. The law, however, while always evolving, does not always account for such divergence of ethical views, and seeks to articulate "universal" standards applicable to a given jurisdiction.)

### Detailed Objectives

Competent candidates will be able to identify in a clinical context that:

- Charter of Rights, statutes, regulations, by-laws, and the rulings of courts (the "common law") are applicable in various ways to the practice of medicine and are binding on physicians;
- *legal principles and provisions often reflect ethical standards; e.g., in the areas of consent, confidentiality, and the duty of care;*
- Canada is a federal state, in which the federal government has jurisdiction in certain areas (e.g., criminal law and the Canada Health Act) and the provincial governments in others (e.g., administration of health care and the regulation of professions).

Important note: Canadian law applicable to the practice of medicine varies from jurisdiction to jurisdiction and evolves constantly. These objectives are therefore necessarily general and provide an overview only. Physicians, teachers, and examiners should ensure that information relied upon is up-to-date and appropriate to the applicable jurisdiction.

## 5.1 The Patient: A Person With Human and Other Legal Rights

### Issues

- The patient as a beneficiary of human and other legal rights
- The patient as the focus of medical practice
- Physician practice regulated by patient rights

### Rationale

The patient is a human being and citizen, and as such, is the beneficiary of many fundamental human and legal rights. The patient's status as the focus and central subject of medical practice, and the requirements of law, dictate that medical practice conform with current concepts of patients' rights.

### Key Objective(s)

- Competent candidates will recognize the patient as a key focus and central subject of medical practice, and understand that the patient is a person with certain fundamental human and legal rights that the physician is required to respect and uphold.

### Detailed Objectives

- *To identify the patient (rather than the physician or the hospital, for example) as a key focus and central subject of medical practice;*
- *To identify patients' fundamental human rights relevant to the practice of medicine, such as:*
  - ◆ *the right to security of the person and inviolability; and*
  - ◆ *the right to freedom from discrimination by virtue of age, race, gender, nationality, religion, sexual orientation, financial means, or other status.*
- *To demonstrate the knowledge that the patient has fundamental legal rights in the medical context, arising under both statutory law and the rulings of the courts, that are binding on the physician.*

## 5.2 Legal Aspects of Consent

### Issues

- Voluntary and informed consent as a fundamental legal requirement
- The elements and practical aspects of consent to investigation, treatment, or research
- The right to refuse consent
- Exceptions to the requirement for consent

(These objectives should be considered in conjunction with corresponding objectives concerning the ethical aspects of medical practice)

### Rationale

The right to security of the person/inviolability means that it is legally (and ethically) mandatory that the physician obtain the consent of his/her patient (or in the case of the incompetent patient, the patient's lawful substitute) for any medical investigation, treatment, or research. This consent must be voluntarily given and fully informed, and may be expressed or implied and given orally or in writing according to the circumstances. Consent may be lawfully withheld and this decision must be respected. The law provides for a limited number of exceptions to the requirement for consent.

### Detailed Objectives

The competent candidate will be able to demonstrate an understanding that:

- *It is mandatory that the patient's consent be obtained for any medical investigation, treatment, or research.*
- *Consent must be freely given and fully informed.*
- *Full information must be given, in language that the patient or involved person(s) can understand. This must include information regarding the nature of the proposed treatment or investigation, anticipated effects, material or significant risks, alternatives available, and any information regarding delegation of care, and will be given according to the circumstances of each particular case.*
- *The obligation of disclosure rests with the physician who is to carry out the treatment. It may be delegated in appropriate circumstances to another qualified physician, but responsibility lies with the delegating physician.*
- *Consent may be expressed or implied, and given orally or in writing (according to the circumstances, noting that by law in some circumstances consent must be written).*
- *The consenting patient must have the legal capacity to consent; i.e., of a legal age to consent (different provinces specify differing ages at which a patient is deemed to be capable of giving consent). The treatment of minors often raises a number of important legal (as well as ethical and practical) issues for physicians.*
- *The consenting patient must be competent to consent; i.e., sufficiently capable; e.g., if they are young or mentally incapacitated, they must be able to understand the information required for consent and appreciate the reasonably foreseeable consequences. Competence is to be assessed operationally or functionally; i.e., the patient need only be competent to consent to, or refuse the particular choice in question.*
- *If the patient is not competent or lacks capacity to consent, then consent may be obtained (according to the law applicable in each province and the specific circumstances) from a court, parent or substitute decision-maker. The law regarding delegation of care is specific to each province and the physician should be fully aware of local requirements in this regard.*
- *The patient has the right to refuse consent to treatment and this decision must be respected, even when this may lead to the death of the patient.*
- *Consent may be withdrawn at any time without penalty or any other impact on the provision of care.*

- *There are a number of exceptions to the requirement for consent, such as for:*
  - ◆ *necessary treatment in a medical emergency;*
  - ◆ *under certain circumstances (including pursuant to mental health legislation) where patients are a danger to the lives or health of others or themselves; and*
  - ◆ *where the law provides for compulsory treatment.*
- *Treatment is limited to the scope of consent given, including to the identity of the treating physician.*

### 5.3 Legal Aspects of Confidentiality

#### Issues

- The duty of confidentiality: a legal requirement
- Exceptions to the requirement of confidentiality  
(These objectives should be considered in conjunction with corresponding objectives concerning the ethical aspects of medical practice.)

#### Rationale

Physicians are legally (and ethically) bound to hold any and all information obtained from a patient confidential. This duty ensures that the patient's legal rights (including reputation and social status) are protected. Confidentiality is, of course, also recognized as essential for physician-patient respect and trust. Exceptions arise when the patient waives the right to confidentiality or when provided for in law.

#### Detailed Objectives

The competent candidate will be able to recognize and apply the following principles in the clinical situation:

- ***The patient's fundamental right to security of the person, reputation and social status, and various specific provisions in law require that physicians hold all information concerning a patient confidential.***
- ***A physician may not disclose patient information (whether about the existence, nature, extent of illness or any other health information) except where expressly authorized by the patient to do so, or when the law permits or requires such disclosure.***
- Exceptions to the duty of confidentiality and the requirement of patient consent for its disclosure are provided for in various (provincial and federal) statutes. These require physicians to report certain confidential information for the protection of public health and other purposes, and in some cases provide for penalties for failure to do so.
- In respect of legal processes involving physicians, physicians may not disclose confidential information even in the case of service of a subpoena or police investigation, except when ordered to do so by a court or pursuant to a search warrant.
- Consent may reasonably be implied, with caution, where inter-health care team communication is essential for the effective provision of care.
- Special care must be exercised not to inadvertently disclose patient confidences; e.g., in unguarded conversation or to patients' friends or relatives.
- ***Breach of the duty of confidentiality renders the physician potentially liable for damages to the patient and/or open to disciplinary proceedings before provincial licensing authorities.***
- A physician's duty to society may in exceptional circumstances legally justify disclosure of confidential information where, for example it becomes known to a physician that a patient is about to seriously harm or kill another person. There are limitations in law, however, on the duty to warn.
- ***Due to the complexity of the rule/requirements of, and exceptions to, the duty of confidentiality, advice may be sought from provincial licensing authorities or legal counsel, when in doubt.***
- Special care must be exercised with the use of fax, e-mail or other electronic means for the transmission of patient health information, as these methods of transmission can compromise confidentiality.

## 5.4 Physicians' Legal Liability for Negligence (or, in Québec, Civil Liability)

### Issues

- Physicians' civil liability for their actions and omissions
- Legal foundations for physicians' civil liability
- The basic elements of physicians' civil liability to a patient

### Rationale

Physicians are legally liable to their patients for causing harm through a failure to meet the standard of care applicable under the circumstances. While there are a number of differing "causes of action" for such liability including assault and battery, the great majority of civil cases launched by patients against physicians are based on negligence (or, in Québec, on the Civil Code provisions regarding general civil liability). A number of elements must be present for a claim against a physician to succeed.

### Detailed Objectives

Competent candidates will be able to demonstrate an understanding that:

- *Physicians are legally liable to their patients for causing harm through a failure to meet the standard of care that is applicable under the particular circumstances under consideration.*
- *This liability arises from the physician's common law duty of care to his/her patients in the doctor/patient relationship (or, in Québec, from the Civil Code provisions regarding general civil liability).*
- *Four basic elements must generally be established by a patient for an action against a physician to succeed in negligence (or civil liability):*
  - ◆ *a duty of care owed to the patient;*
  - ◆ *a breach of the duty of care;*
  - ◆ *some harm or injury to the patient; and*
  - ◆ *the harm or injury must have been caused by the breach of the duty of care.*
- *The duty of care arises out of the doctor/patient relationship (or, in Québec, the medical contract and the law of delict). Once such a relationship arises, the physician is required to attend to the patient attentively, with continuity, and to exercise reasonable care, skill, and judgement (until the relationship is ended through an appropriate process).*
- *The standard of care expected of a physician is one that would reasonably be expected under similar circumstances of an ordinary, prudent physician of the same training, experience, specialization, and standing.*
- *In some circumstances, physicians may be held vicariously liable (i.e., legally liable for the actions of employees or other persons under their control/delegation).*
- *actions in negligence (or civil liability) must be launched by patients within a certain prescribed period, which may differ from province to province.*

## 5.5 Legal Aspects of Physician Competence and Conduct

### Issues

- Requirement for physician licensure
- Legal (and ethical) prohibitions; e.g., those concerning physicians' sexual conduct with patients
- Physician's legal (and ethical) obligations of continuity of care, and of competent and accessible care
- Physicians' obligations to make reports concerning other physicians' conduct
- Conflict of interest
- Conduct with regard to advertising and soliciting patients

### Rationale

Protection of patients and the public requires that physicians' competence be assured and maintained; that physicians' conduct in the context of the physician/patient relationship be proper; and that mechanisms exist for dealing with incompetent or impaired physicians, or those who engage in improper behaviour.

### Detailed Objectives

Competent candidates will be able to demonstrate an understanding that:

- *Physicians are legally required to be licensed with the appropriate authority.*
- *Physicians' competence and conduct is legally (and ethically) regulated in certain respects to protect patients and society in general.*
- *Physicians' conduct is of particular concern with respect to:*
  - ◆ *the continuity and accessibility of the care and coverage they provide;*
  - ◆ *in particular, physicians must ensure that patients have access to continuous on-call coverage and are never abandoned;*
  - ◆ *physicians' sexual conduct with patients, which irrespective of whether the patient apparently consented, is a serious transgression that could lead to criminal, civil, and disciplinary action against the physician;*
  - ◆ physicians' honesty and integrity, including information provided to third parties; e.g., Medical Plan, Insurance Company, welfare, and other government departments; and
  - ◆ (according to law in some provinces) conflict of interest, including by virtue of direct financial interest in a pharmaceutical, therapeutic, laboratory or other enterprise, or by virtue of a direct or indirect commission or payment for a service rendered to a patient by another person who is not a formal partner.
- In some provinces, physicians are required to make reports with respect to certain conduct of other physicians including the patient-physician boundary, competent clinical practice, and unacceptable forms of care.
- Advertising professional services so as to avoid:
  - ◆ misrepresenting fact;
  - ◆ comparing either directly, indirectly or by innuendo, services or abilities with that of any other physician or clinic, or promising or offering more effective services or better results than those available elsewhere;
  - ◆ deprecating another physician or clinic;
  - ◆ creating an unjustified expectation as to the results the physician can achieve;
  - ◆ taking advantage of the vulnerability of patients; and
  - ◆ disclosing the identity of patients.

## 5.6 Statutory Requirements of Physicians

### Issues

- Physicians' statutory reporting or notification obligations
- Exceptions to the duty of confidentiality  
(These objectives should be considered in conjunction with corresponding objectives concerning organizational aspects of medical practice.)

### Rationale

It is judged to be in the interest of the public at large and public health that certain information concerning communicable diseases, infirmities, harmful social behaviours, and certain vital statistics be compulsorily reported by physicians to the appropriate authorities, notwithstanding physicians' duty of confidentiality.

### Detailed Objectives

Competent candidates will be able to demonstrate an understanding that:

- *Physicians are legally required under certain provisions of various provincial and federal laws to report confidential information concerning the health, well-being, morbidity, or mortality of a patient to the appropriate authorities.*
- *Reporting requirements vary from province to province, and often include areas such as:*
  - ◆ fitness to work in the field of aeronautics;
  - ◆ reports to coroners regarding death through violence, misconduct, negligence, malpractice, pregnancy, or unknown cause(s);
  - ◆ *suspected child abuse or abandonment;*
  - ◆ *fitness to drive a vehicle on public highways;*
  - ◆ pre-marital health;
  - ◆ communicable/infectious and certain environmental/occupational diseases;
  - ◆ details of births and deaths (vital statistics legislation);
  - ◆ occupational illness and injury;
  - ◆ the conduct of other physicians or regulated health professionals;
  - ◆ conditions in health care institutions; and
  - ◆ neglected persons.
- Failure to make such a statutorily-required report can incur penal sanction (e.g., charges, fines) or civil liability on the part of the physician concerned.
- These obligations to report constitute legal exceptions to the duty of confidentiality and physicians making such reports are shielded from any liability for doing so.
- In certain cases (e.g., certain provisions of legislation relating to highway safety and motor vehicles in Quebec and Nova Scotia respectively) physicians are *authorized* (as opposed to being required) to report certain information concerning a patient, and are shielded from liability for doing so.



## 5.7 Legal Aspects of Medical Records

### Issues

- The duty to maintain medical records
- Access to and disclosure of medical records
- Ownership and transfer of medical records
- Use in court proceedings

(These objectives should be considered in conjunction with corresponding objectives concerning organizational aspects of medical practice).

### Rationale

As a component of adequate care, physicians are required to maintain adequate (complete, up-to-date, and accurate) medical records concerning each patient. This is essential for adequacy, continuity, and comprehensiveness of care, as well as with respect to malpractice, quality control, and medical-legal reporting. The issues of patient and others' access to records, their ownership and transfer, their use in court proceedings, and the fact that medical/legal reports are regulated by law in most jurisdictions must be recognized.

### Detailed Objectives

Competent candidates will be able to demonstrate an understanding that:

- *Physicians have a duty to maintain adequate records in respect of each patient they treat.*
- *The law (and good practice) obliges the physician to maintain an adequate medical record, which includes:*
  - ◆ *ensuring adequate, continuous, and comprehensive care;*
  - ◆ *quality control;*
  - ◆ *evidence in the context of alleged malpractice; and*
  - ◆ *provision of medical-legal reports.*
- The law specifies minimum time-frames for the preservation of medical records (10 years in most jurisdictions, and possibly permanently).
- *While patients and their representatives are fully entitled to access to the patient's medical records upon written request, a third party may only have such access with the consent of the patient, by provision of law (e.g., post-mortem insurance company access; post-mortem family access concerning inheritable diseases), or by order of a court.*
- Various statutes provide for the compulsory disclosure of part or all of a medical record under certain defined circumstances.
- Under very limited circumstances, a physician may refuse to permit access to a medical record where the physician believes that such disclosure would harm the patient or a third party. Such refusal may however be challenged, including in court.
- *While the medical record is the property of the physician or institution, the physician must provide the patient with full access to the content of the medical record on request.*
- *A physician is required to promptly furnish a copy of the medical record to another physician at the patient's (written) request.*
- The physician may charge the patient a reasonable fee for copying and delivery of the record. The record may not be unreasonably withheld, even where the fee has not been paid (for example in the case of financial hardship).
- *A physician must furnish a medical record to a patient's lawyer or insurer on the patient's (written) request.*
- Legal confidentiality requirements apply equally to electronic records, in respect of which particular care must be taken with respect to preservation and confidentiality.
- There may be particular legal requirements in some provinces relating to medical records of which physicians in certain specialties need to be aware (e.g., statutorily specified authorization form for disclosure of psychiatric records in Ontario).

## 5.8 Legal Aspects of Hospitals and the Physician

### Issues

- Physicians' relationship with hospitals
- Physicians' legal obligations in the hospital context  
(These objectives should be considered in conjunction with corresponding objectives concerning organizational aspects of medical practice.)

### Rationale

Physicians' practice in the hospital context raises a number of important legal and institutional concerns.

### Detailed Objectives

Competent candidates will be able to demonstrate an understanding that:

- While physicians are mostly not employed by hospitals, physicians' practice in the hospital context is regulated by common law and a number of statutory provisions.
- *Legal provisions concerning medical practice in the hospital context include physicians' duty to:*
  - ◆ *ensure their own competence;*
  - ◆ *to respect hospital by-laws and regulations;*
  - ◆ *to practise within the limits of privileges granted; and*
  - ◆ *to cooperate with other physicians and hospital personnel.*
- *Physicians are required to maintain adequate hospital records, including ongoing care and discharge treatment.*
- The hospital may regulate physician admission to hospital practice, and physician conduct and compliance with hospital requirements, through the issue and withdrawal of hospital privileges.

## 6. GENERAL ORGANIZATION

### 6.1 General Organization of Medical/Health Care in Canada

#### Issues

- Development of Canadian Health Care System
- Federal role and authority in health care (laws)
- Provincial role and authority in health care (laws)
- Components of Canadian medical care system
- Federal and provincial laws regarding health

#### Rationale

Candidates will demonstrate an understanding of the principles and legislative framework of the organization and the components of the health care system in Canada, including the significant laws, both federal and provincial (applicable in their province).

#### Detailed Objectives

Competent candidates will demonstrate the knowledge and principles with respect to:

- *The key issues in the development of the Canadian Health Care System.*
- *The structure of government and the enabling legislation applicable to health care in Canada (e.g., British North America Act; Canada Health Act).*
- The Federal Authority (laws).
- The Provincial Authority (laws).
- The public funding and administration of the system (federal and provincial).
- The components of the health care system.
- *The key principles of the Canada Health Act.*
- Eligibility to use the health system (residents, immigrants and visitors).

#### Sources/References

##### Federal

Hospital Insurance & Diagnostic Services Act (1957)  
Medical Care Act (1966)  
Canada Health Care Act (1984)  
Narcotics Control Act  
Bureau of Dangerous Drugs

##### Provincial

Provincial Health Care Acts  
Medicine Act and Regulations (Establishing Provincial Licensing Authority)  
Coroner's Act  
Mental Health Act  
Public Hospitals Act  
Public Health Act

## 6.2 Hospitals/Medical Care Institutions

### Issues

- Types of service institutions (see Health Care Support Services/Institutions)
- Governance of hospitals/institutions
- Management of hospitals/institutions
- Medical staff organization, including general roles of Chief of Staff/Departments
- Organization of Department/Services
- Appointment/Privileges/Obligations
- Hospital Bylaws/Regulations
- Quality Assurance/Management
- Accountability/discipline
- Legislative Authority for Hospitals/Institutions

### Rationale

Candidates will demonstrate an understanding of hospitals/institutions – their organization (governance/management/medical staff/other health care) and interrelationships. They must be aware that within a hospital or other health institution, they have a contractual arrangement and cannot view themselves as independent operators. They will demonstrate understanding of the duties and obligations of the Chief of Staff, Chief of Department/Service, and the individual staff/medical staff member. They must demonstrate an understanding of the accountability as physicians for medical care rendered and their mandate to review and continuously improve care. They will demonstrate an understanding of the granting of appointment to the staff of a hospital/institution with privileges, and the rights and responsibilities/obligations that accompany a medical staff appointment. They will demonstrate their understanding of the process and sanctions that may be brought to bear for incompetence, incapacity or misconduct as a member of the medical staff.

### Detailed Objectives

Competent candidates will demonstrate the knowledge, skills, and attitudes with respect to:

- The statutory authority for public hospitals/institutions.
- The nature and powers of governance in public hospitals.
- The nature and power of management in public hospitals.
- The nature and power of the medical advisory committee or equivalent.
- The nature and role of the medical staff association.
- The duties of the Chief of Staff or equivalent (e.g., Director of Professional Services).
- The duties of the Chief of Department/Service.
- The duties and lines of reporting of the individual medical staff.
- The nature of obligations such as on-call for individual medical staff.
- The nature of by-laws or regulations of institution/hospitals.
- The requirement for continuous quality of care review.
- The accountability of medical staff members and the process and sanctions for professional misconduct or failure to maintain medical standards.
- The notion of professional self-regulation as it applies to medical staff appointees.

### Sources/References

Public Hospitals/Institutions Act (by Province)

## **6.3 Support Services in the Community**

### **Issues**

#### **6.3.1 Services in the Community**

- Federal support services or institutions (Health Protection Branch, Medical Devices)
- Provincial support services or institution (Provincial Laboratories)
- Public Health System and Units
- District or regional health councils or agencies
- Public Health Departments (provincial and municipal)
- Worker's Compensation Boards or equivalent
- Youth Protection Agencies (legal and other roles)

#### **6.3.2 Services Provided by Institutions**

- Nursing Homes and Chronic Care Facilities
- Mental Health Facilities
- Types of institutions supplying care; e.g., in-patient services, ambulatory services, and other services
- Local Health Centres

### **Rationale**

Candidates will demonstrate an understanding of the network and nature of health care support services and institutions available outside private office practice settings and the regular acute care hospitals (including specialty hospitals as mental, children, palliative care, rehabilitation). They will demonstrate that they know how to access and utilize these services for their patients.

### **Detailed Objectives**

Competent candidates will demonstrate knowledge of and how to access services with respect to:

- The nature and role of federal programmes and services (e.g., Health Protection Branch, Bureau of Drugs and Devices; Bureau on Radiation and Medical Devices).
- The nature and role of provincial programmes and services (Public Health Departments and Social Service Agencies).
- The nature and role of support services for injured worker (Worker's Compensation Board or equivalent).
- The nature and role of support services for youth (Children's Aid Society).
- The nature and role of facilities and services for the aged.
- Mechanisms and organizations which provide social services related to health.
- The co-ordination of services (ambulatory; in-patient; chronic care; rehabilitation services).
- Individuals able to assist with access to community services (home care co-ordinator, etc.)

## 6.4 Organization of Medical Practice

### Issues

- Institutional practice (salaried, independent contractor, fee-for-service)
- Private office practice (solo, group, clinics)
- Physician as employer and as office manager (labour law, commercial law)
- Medical regulatory requirement in practice (advertising, maintenance of medical records, infection control, medication handling, preservation of records, disposal of human tissue/products, and quality assurance)
- Remuneration models and billing for uninsured services
- Liabilities: office risk management and coverage
- Relationship to unions in medical practice
- Geographical Distribution of work force
- Payment for uninsured services

### Rationale

Candidates will demonstrate an understanding of the various types of practice situations and appreciate their obligations in managing a practice. The candidate will demonstrate an understanding of the medical regulatory requirements for administrative standards of practice, as well as, recognizing other requirements relating to fulfilment of labour standards in staffing and other legal obligations under municipal or provincial regulations.

### Detailed Objectives

Competent candidates will demonstrate the knowledge, skills, and attitude with respect to:

- The advantage/disadvantages of different practice situations.
- The responsibilities and obligations in the general administration and management of an office.
- The responsibility and obligation to meet the medical regulatory requirements for a medical office practice (medical records, advertising, narcotic and drug control, quality assurance, infection control).
- The requirement for advertising of services not to be false or misleading and to be in good taste, not to create unjustified expectation, and not to impugn the reputation of other physicians or services.
- The different remuneration models available in fee-for-service, salaried practice, and capitation (including managed care).
- Principles underlying the policies on billing for uninsured services recommended by the provincial licensing authority and/or provincial medical association/federation (nature of service, patient's ability to pay, notification of fee prior to treatment).
- The special requirements for billing for uninsured services, including prior disclosure of fees to patients, opportunities to discuss fees, option of prior payment of fees, and fees to be determined by the nature of service.

## 6.5 Medical Records in Office Practice

### Issues

- Physician's duty to maintain medical records
- Physician's ownership of the records
- Patient's right of access to and transmission of the medical information to others
- Physician's duty to transfer patient information upon request and authorization
- Ownership of patient's medical record and related information

### Rationale

Medical records document the nature and continuity of care for each patient and must meet a statutory requirement for their development, maintenance, and security. Patient's right of access has recently been clarified and extended by the courts. Physicians must demonstrate an understanding of whom else has access to these records or their copies, and under what circumstances, such as patient consent to release or when other physicians are providing concurrent or consultative care.

### Detailed Objectives

The competent physician will be able to demonstrate an understanding:

- That physicians have a duty to maintain adequate records on each patient.
- That certain basic elements must be included in that record.
- That the records must be secure and they are the property of the physician.
- That the records must be maintained for a defined period.
- That patients have a right of access to their records at reasonable times.
- That authorized representatives have right of access to the records or their copies.
- That the patient may request transfer of the medical information to another physician.
- That a fee may be charged for this transfer of information or copying of records.
- That the physician may only deny access to a medical record when he believes on reasonable grounds that such disclosure may lead to harm to the patient or violate a confidence.

### Sources/References

McInerny vs. McDonald (Supreme Court of Canada)  
Provincial Statutes

## 6.6 Self-Regulation of the Profession

### Issues

Medical self-regulation implies that society grants certain privileges and obligations to the profession and in return requires the profession to act in the public interest through the:

- Role and authority of provincial licensing authorities (Colleges or Medical Boards)
- Licensing authorities: maintaining standards for licensure, definition of restrictive acts, continuing competence, and clinical practice
- Licensing authorities: maintaining standards or code of ethics
- Licensing authorities: dealing with allegations of incompetence, incapacity, or misconduct
- Role of certifying bodies (MCC, RCPSC, CFPC)
- Role of medical associations (CMA, Specialty Societies, Local Academies)
- Health care institutions: maintaining quality of medical care and handling of complaints

### Rationale

Candidates will demonstrate an understanding of the nature of self-regulation and the authority of the licensing authorities and the responsibilities of the individual practitioner in self-regulation. Candidates will demonstrate an understanding that as practising physicians, they are active members of the provincial licensing authority with duties and obligations in the common purpose of regulating and governing the practices of medicine. Competent candidates will demonstrate an understanding that medical self-regulation is a privilege and not a right and that it must be exercised in the public interest.

### Detailed Objectives

Competent candidates will demonstrate knowledge and attitudes with respect to:

- ***The role and authority of the provincial licensing authority to regulate and govern all members of the profession in the public interest by setting and maintaining standards.***
- Their role and obligations as members of the licensing authority.
- The requirements for cooperation with the licensing authority (e.g., access to records, the office, etc.).
- The standards for entry to practise (licensing requirements).
- The requirements for continuing competence (MAINPRO, MOCOMP, Peer Assessment).
- The requirements for ethical and mandatory reporting to the licensing authority (code of ethics, public hospitals act, province-specific health care legislation).
- The systems for processing complaints/allegations about physicians' performance/conduct.
- ***The distinction between the licensing authority and the certifying bodies (MCC, RCPSC, CFPC).***
- ***The distinction between the licensing authority and the various medical professional associations.***

### Sources/References

Medicine Acts and Regulations (by Province)  
Codes of Ethics



## **6.7 Non-Governmental Organizations (N.G.O.)**

### **Issues**

#### **6.7.1 Volunteer support and non-profit groups**

- Home care (e.g., VON; AIDS Organizations)
- Disease-specific support groups (e.g., Arthritis Society)
- Community groups offering services or products (e.g., St. John's Ambulance, Red Cross)
- Religious groups (e.g., Salvation Army; church based food banks or shelters)

#### **6.7.2 Advocacy groups**

- Patient advocacy (e.g., patient rights association; Consumers Association of Canada, Psychiatric patient survivor's groups)
- Disease advocacy (e.g., AIDS groups, Canadian Cancer Society)

#### **6.7.3 Hospital/institution support group**

- Foundation for fundraising
- Hospital-Family Liaison Committees
- Volunteers Associations (e.g., fundraising; patient support)

### **Rationale**

The candidate will demonstrate an understanding of the large informal network of volunteer groups that exist to assist or advocate in the community on behalf of institutions, specific disease states, or patient groups. The candidate will recognize the major contribution that N.G.O.'s make to fundraising and direct patient or institution support.

### **Detailed Objectives**

Competent candidates will demonstrate knowledge with respect to:

- The major role volunteer support groups play in fundraising and in providing direct support for patients in or out of institutions.
- The role some advocacy groups play in promoting the interest of sufferers of specific disease states through public awareness, fundraising activities, and direct patient care.
- The role and benefit of non-profit organizations in providing health care out of hospital.
- The role of some advocacy groups in challenging current health care and care by physicians.
- The role of non-government agencies in fundraising for health services, program support, and research.

## 6.8 Professional Associations

### Issues

#### 6.8.1 Voluntary Professional Associations

- CMA and its provincial divisions
- Resident/Student associations and their provincial associations
- National specialty associations
- CMPA
- Non-Medical health professions associations

#### 6.8.2 Mandatory Professional Bodies

- Licensing Authority (LA - Provincial)

#### 6.8.3 Certifying/Education Bodies

- MCC
- RCPSC
- CFPC and Provincial Chapters

### Rationale

Candidates will demonstrate an understanding of the nature and roles of major professional medical associations and their distinctive roles as opposed to the role of the provincial Licensing Authorities with which they have a statutory and mandatory relationship.

### Detailed Objectives

Competent candidates will demonstrate knowledge with respect to:

- ***The role and voluntary nature of CMA and other professional associations, advocating for and representing the interests of the medical profession in health care and health education.***
- The role and function of the certifying/evaluating bodies (RCPSC, CFPC, and MCC) and the ACMC in evaluating candidates and the advocacy role of the RCPSC and CFPC for specialists and family physicians, in dealing with the areas of educational standards.
- The role of specialty and other professional associations in providing educational and professional development, as well as being advocates for their disciplines.
- ***The role of student and resident associations in promoting protecting their members' interests.***
- ***The role of the CMPA as a medical defence association representing the interests of individual physicians.***
- The unique role and authority of the LA's in the self-regulation and governance of the medical profession.
- The roles played by other associations and special interest groups in delineating health care, educational, and research policies in Canada.
- The roles played by the other health professions' associations in developing health policy.

### Sources/References

Charters for Voluntary Associations

Charters for Certifying Bodies

Statutory Acts for LA's

## 6.9 Inter-Professional Issues

### Issues

- Regulatory status of other health care professions
- Scope of practice of other health care professionals
- Concept and process of delegation of medical acts to other health care professionals
- Definition of lines of authority
- The physician-nurse or other health care workers working professional relationship
- Professional communications and interaction with other health care workers (e.g., nurses)
- Concepts of team management and shared care

### Rationale

The candidate will demonstrate an understanding of the need for proper professional relations with other health care professionals and workers based on respect for others working in a team environment, including an understanding of roles, competencies, and lines of responsibility of each.

### Detailed Objectives

The competent candidate will demonstrate knowledge, skills, and attitudes regarding:

- The role and skills of practice for other health care workers who are self-regulated.
- ***The proper inter-professional relationship based on respect and clear communication.***
- The delegation of acts between physicians and other health care workers.
- ***The ability to work in a collegial way within a team structure involving other physicians and health care workers.***
- ***Maintain respect for the role of the other health professions at all times.***

### Sources/References

Code of Ethics (Collège des médecins du Québec)  
Health Professions Statutes

## 6.10 Impact of Particular Laws on Practice

### Rationale

The candidate will demonstrate an understanding of the wide range of laws that place specific duties, obligations and/or reporting requirements (to various agencies) which fall upon the practitioner under certain circumstances. The candidate, as a potential practitioner, will be able to apply these laws from the point of practice viewpoint rather than as a regulator. The knowledge expected at this level is general, but provincially specific laws and regulations could be evaluated at that level.

### Detailed Objectives

The competent candidate will demonstrate knowledge, skills, and attitudes concerning:

- The duty to report to specified government agencies under certain circumstances (e.g., child abuse, neglect, fitness to drive, fitness to fly, communicable diseases).
- *The duties to comply with statutory/judicial standards for obtaining consent.*
- *The need to respect advanced directives or acting on behalf of the patient.*
- The penalties for failing to comply with the act requiring reporting to agencies.
- The duty to report to the coroner's office under specified circumstances.
- The duties with respect to youth and childhood protection.
- Their responsibilities under the laws and regulations which regulate biomedical waste.

### Sources/References

Named Acts (Federal and Provincial)

## 6.11 Interprovincial Issues: Patient Benefits, Physician Mobility, and Medical Drugs and Devices

### Issues

- Nationally recognized qualifications
- Portability of educational degrees
- Portability of other qualifications
- Provincial specificity of licensure
- Portability of certification
- Transferability of Medicare benefits
- Federal role in monitoring narcotics, mechanical devices and radiation, and pharmaceuticals
- Telemedicine/Telehealth as a cross-border practice

### Rationale

Candidates will demonstrate an understanding of the various principles and legislative policies which influence inter-provincial movement of patients' benefits and health professionals and regulate the drugs and medical devices. They will understand requirements to practise medicine remotely by electronic or other means while meeting standards or requirements in both their resident jurisdiction and that of their cross-border patient.

### Detailed Objectives

Competent candidates will demonstrate the knowledge with respect to:

- ***The portability of the medical degree.***
- The limited portability of other qualifications (LMCC, certification status).
- ***The non-transferability of provincial medical licenses.***
- The portability of patient benefits under the Canada Health Act and the Canada Medical Act.
- The role of the Federal Government in monitoring the health system across provincial borders, certain drugs, devices, and hazards.
- The need to meet local and external Licensing Authorities standards for the practise of telemedicine/telehealth.

### Sources/References

Public Health and Preventive Medicine in Canada  
Canada Health Act

## 7. APPENDIX 1 – MEDICAL LICENSING AUTHORITIES IN CANADA

<b>Newfoundland</b>	Registrar & Secretary Treasurer Newfoundland Medical Board 139 Water Street, Unit 6 St. John's NF A1C 1B2	Tel : (709) 726-8546 Fax : (709) 726-4725
<b>Prince Edward Island</b>	Registrar College of Physicians and Surgeons of PEI Polyclinic Professional Centre 199 Grafton Street Charlottetown PE C1A 1L2	Tel : (902) 566-3861 Fax : (902) 566-3861
<b>Nova Scotia</b>	Registrar College of Physicians and Surgeons of Nova Scotia 5248 Morris Street Halifax NS B3J 1B4	Tel : (902) 422-5823 Fax : (902) 422-5035
<b>New-Brunswick</b>	Registrar College of Physicians and Surgeons of New Brunswick 1 Hampton Road, Suite 300 Rothesay NB E2E 5K8	Tel : (506) 849-5050 Fax : (506) 849-5069
<b>Québec</b>	Secrétaire générale Collège des médecins du Québec 2170, boul. René-Lévesque Ouest Montréal (Qc) H3H 2T8	Tel : (514) 933-4441 Fax : (514) 933-3112
<b>Ontario</b>	Registrar College of Physicians and Surgeons of Ontario 80 College Street Toronto ON M5G 2E2	Tel : (416) 967-2600 1-800-268-7096 ( <i>in-province only</i> ) Fax : (416) 961-3330
<b>Manitoba</b>	Registrar College of Physicians and Surgeons of Manitoba 494 St. James Street Winnipeg MB R3G 3J4	Tel : (204) 774-4344 Fax : (204) 774-0750
<b>Saskatchewan</b>	Registrar College of Physicians and Surgeons of Saskatchewan 211 - 4th Avenue South Saskatoon SK S7K 1N1	Tel : (306) 244-7355 Fax : (306) 244-0090
<b>Alberta</b>	Registrar College of Physicians and Surgeons of Alberta 900 Manulife Place 10180 – 101 Street Edmonton AB T5J 4P8	Tel: (403) 423-4764 1-800-561-3899 ( <i>in-province on.ly</i> ) Fax : (403) 420-0651

**British Columbia**

Registrar  
College of Physicians and  
Surgeons of British Columbia  
1807 West 10th Avenue  
Vancouver BC V6J 2A9

Tel : (604) 733-7758  
Fax : (604) 733-3503

**Northwest  
Territories**

Registrar  
Professional Licensing  
Dept of Health & Social Services  
Government of Northwest Territories  
8th Floor Centre Square Tower  
Box 1320  
Yellowknife NT X1A 2L9

Tel : (867) 920-8058  
Fax : (867) 873-0281

**Yukon**

Registrar  
Dept of Justice, Consumer Services  
Government of Yukon  
PO Box 2703  
Andrew A. Philipsen Law Ctr  
2134 - 2<sup>nd</sup> Ave, 3rd Floor  
Whitehorse YT Y1A 5H6

Tel : (867) 667-5811  
Fax : (867) 667-3609

## NOTES



## NOTES