

October 15, 2020

College of Physicians & Surgeons
of Alberta
2700 - 10020 100 Street NW
Edmonton AB T5J 0N3

via: gail.jones@cpsa.ab.ca and consultation@cpsa.ab.ca

Attention: Dr. John Bradley, President and
Dr. Scott McLeod, Registrar

Re: Proposed Changes to Standards of Practice

Thank you for the opportunity to participate in Consultation 019 on Standards of Practice: Closing or Leaving a Medical Practice; Job Action; and Relocating a Medical Practice.

The Alberta Medical Association understands that the patient-physician relationship is a foundational element of the health care system. The expectations that the profession proudly bear are at the heart of the self-regulation that society grants us.

The AMA also recognizes the College's role to protect the public and guide the profession. As you observed this as a result of the impasse between government and the AMA and the practice changes that physicians were contemplating in response to government actions, you were already proactively revisiting your existing job action standard prior to the Minister's letter from June 18th 2020.

While the Minister has the right to provide direction to the CPSA regarding the standards, the timing of the request was viewed by many as politically motivated. Nonetheless, we are pleased to provide our comments. The decision to allow a consultation period consistent with the usual practice at the CPSA was sound, given the impact these standards have on practicing physicians and the public. Since we have received insightful comments from individual members and expect that you have as well, we will take the broader provincial perspective.

General comments

We believe that these standards should be judged based on a national perspective, not with special attention to any single jurisdiction. Physicians across Canada face quite different situations. In particular, some provinces have comprehensive agreements with physicians that include dispute resolution mechanisms such as arbitration. Others, including Alberta, do not. This absence needs to be considered.

As an example, the BC standard states that “an individual physician or group of physicians must not provide written notice of their intended withdrawal of services until such time as provisions for dispute resolution available under the Physician Master Agreement have been exhausted.” Without an agreement or access to dispute resolution, our members are without the clear marker for their decision points that make BC’s policy workable. Their rights to arbitration have been removed. Physicians in the two provinces require different consideration.

The profession must strike a balance between the protection of patients and the rights of physicians. That balance must weigh the obligations of the physician with the commitment of the system towards them. Undermining one side will impact the other and will lead to an environment that physicians will find unacceptable.

On the rare occasion that a physician or physician group actually contemplates practice changes or withdrawal of service in protest, context matters and should factor into any decision. I would suggest that an individual or group deciding to proceed will only have done so with careful thought and after exhausting all other options, in an environment where there is no other recourse. The standards should recognize that such decisions are morally distressing. Physicians are trying to weigh the immediate needs of the patients in the practice with the larger mandate to provide comprehensive, patient-centred care while remaining healthy, safe and thriving.

The motivation behind an action needs to be considered. Most situations that will fall under the proposed “Withdrawal of Service” standard will not be acts of protest. Policy changes can lead to fiscal realities that make certain practice patterns untenable. Changes that physicians make to their practices under these circumstances may be perceived as “job action,” but in fact simply reflect the need to maintain financial sustainability.

The notion that the CPSA may compel physicians to continue to provide care if “the alternative resources established are ineffective or inadequate” is, in our view, problematic (even if it is consistent with the wording in the CPSBC standard). First, this violates the mobility rights of physicians. Second, situations that will be judged by this section of the standard will be in underserved areas and establishing “alternative resources” may be a challenge or impossible for the individual physician or group despite reasonable effort. One can envision a situation where the well-being of a physician or physician group are placed at significant risk, affecting not only themselves but also their patients and the community in which they serve. Third, we are concerned that this will create a disincentive for physicians to practice in under-served areas or create an incentive for them to leave before others to avoid being put in this position.

The last point in the paragraph above deserves to be emphasized. The loss of any reasonable means for physicians to provide input into their terms, conditions and rate of compensation from effectively the only purchasers of medical services, combined with the loss of any effective means of protest envisioned in the CPSA standards, will make Alberta a highly unattractive place to practice.

As a final comment, these standards will need ongoing monitoring as the landscape changes. It will be important to address any unintended consequences that they may cause.

Regarding wording

There are some areas of the proposed standards that we thought required clarity in an effort to avoid subjectivity.

There are terms and concepts in the draft standards that are difficult to measure and, in some cases, even to clearly define. For example,

- **Closing or Leaving A Medical Practice:** To follow the standard, a physician must assess or quantify what constitutes a “significant” change, as applied to: scope of practice change; distance from an existing practice; decrease in volume of patients defined, etc. The term “acute, active treatment” would also benefit from further clarity.
- **Job Action:** Some of the wording appears to seek the intent of the physician in contemplating an action. For one intention the action is appropriate, but not for another. This focus is a problem. If it is not acceptable to take some actions because of a dispute, then a physician is in an untenable position when needing to withdraw services because she cannot financially afford to do otherwise without resolution of the dispute.

Whatever the final nature of the revised standards of practice, we encourage clear, measurable parameters that are less based on subjective decision making by the physician or the College.

In closing, we commend you for committing to due process and undertaking a thorough consultation on these important standards. We believe that you will be guided by what you learn from this exchange, from professionals whose voices deserve to be heard.

I am happy to discuss these points further at any time. Thank you, again.

Sincerely,

Paul E. Boucher, MD, FRCPC
President, Alberta Medical Association

cc: Mike Gormley
Board of Directors
Members, AMA