

CODE OF CONDUCT AND CONFLICT OF INTEREST POLICY

Date of Policy

February 2023

Intent of Policy

The purpose of this Code of Conduct (the Code) is to provide guidance to directors and nondirector members of committees of the Board (including Working Group members) about their obligations concerning conflicts of interest and confidentiality.

This Code is not exhaustive. It is acknowledged that no articulation of policies, guidelines, and procedures can anticipate all situations.

Background

To ensure directors understand what is expected of them, both morally and legally, this Code of Conduct and Conflict of Interest Policy outlines their responsibilities, expectations, and obligations.

Directors are expected to be committed to ethical, businesslike, and lawful conduct; contribute to fair and effective decision making; and speak with one voice. They are expected to “exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.”¹ This responsibility is significant yet ambiguous; different people have different conceptions of what these things mean in practice. What might be ethical to one director may be considered unethical by another. Similarly, conflicts of interest, both real and perceived, may be unavoidable but need not prevent an individual from serving as a director.

Policy

1. Scope

This Code applies to all directors and nondirector members of committees of the Board (including Working Group members). For the purposes of this Code, “directors” refers to all of these individuals unless otherwise expressly indicated.

The provisions of the Code are in addition to, and not a substitute for, any director’s obligation to the Physician Society imposed by common law, equity, or statute. A director who requires clarification on any provision of this Code should seek the advice of the co-presidents.

This Code:

- a) Reviews directors’ duties.

¹ See Section 53 (1)(b) of the Societies Act (British Columbia).

- b) Provides guidance to directors on matters of conflict of interest and confidentiality.
- c) Provides a Form of Declaration for directors to sign annually to confirm their agreement to comply with the Code.

2. Definitions

In this Code:

- a) “Private interest” means a pecuniary or economic interest or advantage and includes any real or tangible benefit that personally benefits the director or any of his or her associates.
- b) “Associate” means:
 - i. A director’s close relative, including the director’s spouse, son or daughter, or any other relative who shares the same home as the director.
 - ii. A director’s employer.
 - iii. An individual with whom a director is connected by frequent or close association.
 - iv. A corporation of which the director beneficially owns, directly or indirectly, more than 20% of the voting rights attached to all outstanding voting securities of the corporation.
 - v. A trust or estate in which the director has a substantial beneficial interest or for which the director serves as trustee.
 - vi. Other entities where the director serves on the Board.
 - vii. Other community organizations in which the director participates.

3. Duties

Directors’ duties include the following:

Duty of Loyalty – Directors must “act honestly and in good faith with a view to the best interests of the society.”² In placing the interests of the Physician Society ahead of their own personal or business interests, directors must:

- a) Be honest in their dealings with the Physician Society and with others on behalf of the Physician Society.
- b) Avoid situations where they could profit at the expense of the Physician Society, appropriate a business opportunity of the Physician Society, or otherwise put themselves in a position of conflict between their own private interests and the best interests of the Physician Society.

² Section 53 (1)(a), Societies Act

- c) Avoid speaking against or undermining any decision of the Board, regardless of whether the director agrees with or voted for that decision.
- d) Avoid engaging in an activity or speaking publicly on matters where this could be perceived as an official act or representation of the Physician Society unless specifically authorized to do so by the Physician Society.

Duty of Care – Directors owe a duty of care to the Physician Society and must exercise the degree of diligence and skill of a reasonably prudent person.³

Duty of Confidentiality – Directors must not divulge confidential information that they receive as a director to anyone other than persons who are authorized to receive the information. The duty to maintain information in confidence continues after a director ceases to be a director.

Duty to Disclose – Directors have a duty of continuous disclosure.⁴ Directors who become aware of a matter that has a duty to disclose or report under this Code must advise the Board chair as soon as is reasonably practicable. Directors have a duty to disclose to the co-presidents or other officer any real, potential, or perceived conflict of interest that they are aware of between any other director, member, and the Physician Society.

Duty of Compliance – Directors shall comply with all applicable laws and regulations and with the Physician Society’s bylaws and policies adopted by the Board from time to time, including this Code. No director shall commit or condone an illegal act or instruct another director to do so. All directors are expected to follow the spirit as well as the letter of the law.

Duty of Knowledge – Directors must familiarize themselves with the relevant legislation applicable to the Physician Society and to directors and satisfy themselves that appropriate safeguards are in place to ensure compliance with that legislation.

4. Conflict of Interest

A **conflict of interest** is a situation in which the private interests of a director conflict, potentially conflict, or appear to conflict directly or indirectly with his or her duties to the Physician Society, including his or her duty to act in the best interests of the Physician Society.

An **actual conflict of interest** exists where a director exercises an official power or performs an official duty at the same time knowing that in so doing there is the opportunity to further a private interest.

A **potential conflict of interest** exists where there is some private interest that could influence the performance of a director’s duty or function or the exercise of power, provided that the director has not yet exercised that duty or function.

³ Section 53 (1)(b), Societies Act

⁴ Section 56, Societies Act

A **perceived conflict of interest** exists where an informed individual might reasonably believe that a conflict of interest exists on the part of the director.

The strongest defense against a conflict of interest is a strategy of avoidance. By creating systems and processes that, as a matter of practice, avoid actual, potential, or perceived conflicts of interest, the Physician Society can most effectively reduce the risks associated with conflicts of interest.

Each director has a responsibility first and foremost for the welfare of the Physician Society. Every director should avoid any situation in which there is an actual, potential, or perceived conflict of interest that could interfere with the director's judgment in making decisions in the Physician Society's best interests.

5. Protocol for Addressing Conflicts of Interest

A director has an obligation to declare a conflict of interest at the earliest possible time before the issue is discussed or any decision is made. Once a conflict is declared, the person recording the meeting's proceedings notes the declaration and the director must:

- a) Abstain from voting or consenting on the matter in question.
- b) Remove him- or herself from the proceedings during discussion or voting on that particular matter, contract, or arrangement.
- c) Refrain from participating further in any activities involved with the matter and from any action intended to influence the discussion or vote.

If a director is unsure about being in conflict, that director should raise the potential conflict with the Board, which then determines whether a conflict of interest exists. The director may give the Board a statement on his or her opinion of whether a conflict exists, and the Board may ask the director questions that would clarify matters pertaining to the potential conflict.

A director who perceives another director to be in conflict should identify the potential conflict to the Board at the first opportunity. The Board determines by majority vote whether a conflict exists, and the person with the potential conflict follows the process outlined above.

Where a conflict of interest is discovered after a matter has been considered, the conflict must be declared to the Board and appropriately recorded at the first opportunity. If the Board determines that the director's involvement has influenced, or could be perceived to have influenced, the decision, the Board must re-examine the matter and may rescind, vary, or confirm its decision.

6. Confidential Information

Confidential information is information that if disclosed might prejudice the interests of the Physician Society or the privacy rights of its members or stakeholders.

Directors should at all times maintain the confidentiality of all confidential information and all records of the Physician Society, and must not make use of or reveal such information or records except in the course of performing their duties or unless the documents or information become a matter of general public knowledge.

All information generated within the Physician Society is confidential in the sense that it is for the sole purpose of the business of the Physician Society.

Directors may not use confidential information obtained through their association with the Physician Society to further their private interests or the private interests of their associates.