

Legal Update

Given the recent, tragic event in Alberta, the issue of physician safety has rightly become a topic of considerable discussion. OMA Legal created this update to highlight some of the issues surrounding physician safety, including concrete options that members may consider useful in protecting themselves, their staff, and their patients. Members may use this document in conjunction with the CPSO policies to assist in determining the best course of action when addressing safety issues that may arise in specific circumstances. Members may also wish to consult the various articles published by the CMPA related to physician safety and managing patient aggression, including:

- *How to manage conflict and aggressive behaviour in medical practice* (Jan 2017)
- *The office safety plan* (March 2017)
- *Difficult patient encounters: What you can do to prevent, manage, and de-escalate* (March 2020)

Physician Safety: How to Protect Against Threats or Risk of Harm By Patients

1) Can I end the doctor-patient relationship?

The CPSO's Policy on *Ending the Physician-Patient Relationship* expressly provides that physicians are not required to comply with the expectations set out in the Policy where, "in the physician's judgment, the patient poses a genuine risk of harm to the physician, the physician's staff, or to other patients. In these circumstances, physicians are under no obligation to engage with the patient prior to ending the relationship."

A physician can end the doctor-patient relationship as long as the professional obligations governing termination of that relationship are met. The College of Physicians and Surgeons of Ontario (CPSO) Policy entitled *Ending the Physician-Patient Relationship* can be found here: <https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Ending-the-Physician-Patient-Relationship>

Every situation needs to evaluated on its own merits, but examples of situations which may lead a physician to end the relationship include:

- where there has been a significant breakdown in the physician-patient relationship;
- where the physician wishes to decrease their practice size;
- where a patient has been absent from the practice for an extended period of time;
- when a patient has refused to pay an outstanding fee; and
- where the patient has sought care outside a rostered practice.

The CPSO policy provides further examples of circumstances that may lead to the breakdown in the doctor-patient relationship including:

- behaviour which significantly disrupts the practice; and
- other forms of inappropriate behaviour, including abusive or threatening language.

The decision to end a doctor-patient relationship is necessarily fact specific and will often depend on the particular patient at issue. Through the CPSO policy referenced above, the College provides guidance for physicians regarding their professional obligations when ending this

relationship. There are general expectations of physicians in these circumstances – such as the application of clinical judgment and compassion and that reasonable efforts are made to resolve the situation in the best interests of the patient – and there are specific expectations, such as those relating to patient notification and the provision of interim care. The policy also recognizes physicians may not always need to provide the rationale for discontinuing the relationship to the patient where there is a genuine risk of harm.

Full details of all the relevant obligations can be found by reading the [CPSO policy](#).

If you have questions about ending the doctor-patient relationship, the CMPA is available to assist.

2) Is contacting the police a breach of privacy?

It is not a breach of patient privacy to call police if you have been physically threatened or assaulted. Under PHIPA, Personal Health Information (PHI) may be disclosed to facilitate an investigation or where the disclosure is necessary to reduce or eliminate a significant risk of bodily harm to a person or group of persons.

Any report to the police should disclose only the nature of the incident and the minimal amount of personal health information required to prevent or reduce the risk of harm.

If you have concerns about calling the police, or what to disclose, you are encouraged to contact the CMPA for advice where practicable. There are certain legal measures that may be taken to protect a physician in circumstances where a patient is exhibiting aggressive behaviour or threatening a physician's personal safety.

3) What do I do if I feel threatened or if my family is threatened? What is the right thing to do?

Physicians and their staff have a right to a safe work environment. Unfortunately, patients and their families may engage in abusive behaviour from time to time. Physicians are entitled to have a zero-tolerance policy with respect to abusive and disruptive behaviour.

If personal safety is not a concern, disruptive patients should be clearly told that their behaviour is not acceptable. If a policy exists, it is helpful to have it posted in the office prominently. Disruptive patients should be advised of the consequences of any recurrence (e.g., ending the doctor-patient relationship).

If there is repetitive disruptive or abusive behaviour, or if there is a major or severe incident, the physician should consider ending the doctor-patient relationship in accordance with the [CPSO's policy](#).

If there is a physical threat or assault the physician may notify the police or, in a hospital setting, a security guard. Typically, the report to the police should disclose only the nature of the incident and Personal Health Information required to prevent the harm.

If you have concerns about calling the police, or what to disclose, you are encouraged to contact the CMPA for advice where practicable. There are certain legal measures that may be taken to protect a physician in circumstances where a patient is exhibiting aggressive behaviour or threatening a physician's personal safety.

In all cases, the physician should document disruptive and/or abusive behaviour clearly and factually in the chart.

4) How do I make my office environment safe for myself and my staff?

There are many ways to increase the safety of your medical office and lower the risk to yourself, your staff and your patients. Choosing how to arrange your practice will inevitably be a personal exercise, but below are some helpful measures to assist in creating a safe environment at the office:

- **Create Office Policies:**
 - Consider creating and posting a policy about what behaviour is acceptable and the potential consequences for any violations by patients or staff. The policy should be posted in prominent areas of the office so that it is brought to the attention of patients.
 - Although it is generally necessary to meet with patients in private, physicians must be mindful of their own safety and may want to ask a staff member or colleague to join them, where appropriate.
- **Physical Layout** – consider arranging office furniture close to doors or exits to avoid anyone being cornered and to allow a rapid exit.
- **Controlled Access** – consider controlled access to certain areas (code entry) and physician and information technology security for records, technology, and equipment.
- **Medication Storage** – ensure that medication is stored in designated areas and that controlled substances are properly secured.
- **Security Systems** – security alarms are effective, as are panic buttons. The use of video surveillance engages privacy issues that need to be addressed directly with the CPSO and the Ontario Information Privacy Commissioner in advance as there are some spaces used by patients where video surveillance is not permitted, and notice of using video surveillance should be posted prominently within the areas being surveilled.
- **Lighting** – bright lighting near entrances, exits and parking lots allow for better visibility.
- **Emergency Procedures** – consider creating and implementing emergency response procedures that staff are trained to execute.

Disclaimer: This document is provided for information purposes and is intended for general guidance only. It should not be regarded as comprehensive or a substitute for professional or legal advice. The information provided does not supersede CPSO policies or the law. Before taking any particular course of action, strongly consider contacting the CMPA, CPSO, and/or the IPC as these matters are fact specific and depend on the particular circumstances that exist in each case.