



# PRACTICE STANDARDS AND MEDICAL LEGAL OBLIGATIONS DURING COVID-19

Webinar recording: **May 7, 2020**

URL: <https://ubccpd.ca/practice-standards-and-medical-legal-obligations-during-covid-19>

**Disclaimer:** Information on COVID-19 is changing rapidly and much of the research is preliminary. Assessment and management protocols are suggestions only; they do not take the place of clinical judgement. Please check with your own health authorities and local medical health officers as policies and support for the suggested approaches to patient care may vary between regions.

This summary was prepared by Dr. Simon Moore and not by the speakers.

## Webinar Summary of Clinical Pearls

### Complaints involving physicians & COVID-19

College complaints have been received about physicians who:

- Are using **photograph or text message prescriptions**, which the CPSBC does not consider to be appropriate
- Have **posted information on social media** about patients, even if anonymized
- Are **practising while ill**. Employees also need to avoid coming to work while showing signs of fever or respiratory symptoms. For physicians who are also employers, it is now time to update policies that clarify that coming to work while ill is no longer acceptable.
- Have **not provided appropriate care** during the pandemic:
  - From a **college complaint perspective**, the CPSBC committee would be sensitive to what was reasonable, rational, and what the standard of care was in the context of the pandemic.
  - From a **legal perspective**, there is minimal case law (only 1 case in Ontario) on this topic in which the court stated “physicians can’t reasonably be expected to provide care that is unavailable or impracticable due to scarcity of resources.”

## Virtual Care – What to document at every visit

Whether physicians are providing virtual care to patients in their own practice, or via a standalone telemedicine company, they must consider & document **consent, context, callers, complete, conclusion** and **continuity**.

### Consent

- **Document consent and discussion of risks.** Physicians should document patient consent to the virtual care encounters due to the inherent security risks and clinical limitations. Some of these risks can be minimized by using a secure platform with end-to-end encryption. E-mail, or e-fax that uses e-mail or servers located in other countries, are not considered a secure platform.
- **A signed consent form is not necessarily consent.** Initially, verbal consent is reasonable; for ongoing care, consent does not need to be obtained at every visit. A signed consent form is useful, but appropriate consent involves a discussion with the patient about risks and benefits and the opportunity to ask questions.

### Context

- **Mention the COVID-19 context.** It is worth mentioning the limitations at the current phase of the COVID-19 pandemic if they are relevant to the patient encounter. In court, standard of care can be contextual. *See “Complaints” below for more details.*

### Callers

- **Confirm identity.** Use two identifiers (e.g. ask for date of birth, when is the last time we spoke).
- **Know who else is listening** and list them in the chart. In Canada it is legal for recordings to be made as long as one party is aware of it; patients may be recording physicians more than we realize, and physicians should act at all times as if they are being recorded.

### Complete

- **A physical exam is often required, especially before referral.** If this cannot be done on a virtual visit, an exam should be recommended to the patient if needed. The CPSBC expects that an appropriate physical examination has been done prior to referring a patient to a specialist.

### Conclusion

- Demonstrate & document a rational thinking process e.g. how you arrived at the clinical conclusion.

### Continuity

- Provide clear recommendations on follow-up care including timing and after-hours coverage.

- The CPSBC expects that specialist clinics contact patients about appointment details rather than Family Physicians. This is a guideline rather than a standard and there may be times when it is in the best interests of the patient for the Family Physician to do so (i.e. language barrier).

## Virtual Care – Additional considerations

- **Physicians licenced in a province are accountable in that province**  
Currently national licensure is a long way off, and physicians licenced in other provinces may provide care to patients who are located in British Columbia. The CPSBC does not expect that every Canadian physician who provides virtual care to patients in BC must have a licence in BC, and would consider it “overly bureaucratic” to prosecute physicians for doing this. The insurance company (e.g. Medical Services Plan) is also reviewing this issue.
- **Quality and continuity must be maintained.**  
With respect to standalone virtual care that is not connected to a bricks-and-mortar clinic, there have been several College Connector articles about how the CPSBC does not think these are the best care model. The CPSBC also plans to discuss with the Ministry of Health regarding physician concerns about gaps in quality and continuity of care. That being said, there are many medical conditions where a “one-and-done” approach is adequate, or where patients seek out care from a provider other than their usual provider.
- **Professional obligations during COVID-19 remain unchanged**  
Though the standard of care may change due to resource limitations during the pandemic, ultimately the ethical, professional, and legal obligations for physicians remain the same – physicians are expected to assess risks & benefits and the needs of their patients. They are expected to provide the best care possible for their patients under the circumstances.
- **Future updates are expected**  
As Virtual Care plays an increasing role in conjunction with in-person patient visits, future regulatory updates are being developed regarding quality markers. The CPSBC Peer Practice Assessment Program will also soon assess aspects of virtual care.

## In-person visits: Personal Protective Equipment (PPE) is required

- **If PPE is not available, find appropriate alternative care for the patient**  
No reasonable physician is going to put their health at risk by not wearing PPE. Patients should also not be put at risk by providers who do not wear PPE. However, physicians also have a duty of care to their patients. If PPE is not available, the patient should be appropriately redirected to an assessment centre or colleague. The CPSBC and CMPA do not have expectation that physicians put themselves at risk if PPE is unavailable.

- **No physician will be forced to see patients in-person.**

Some physicians are concerned about their own health and do not want to see patients in person during the pandemic. One option is to discuss with their department other ways to contribute. If a physician cannot provide care for their own patients then other arrangements should be made. You cannot abandon your patients by closing your clinic without an appropriate back up plan for your patients to receive care.

## Updates to the Controlled Drug and Substances Act

### For controlled substances:

- Pharmacists may now extend / transfer and deliver the prescription
- Physicians may now give verbal / faxed prescription (deliver originals ASAP)

## Resources

- **CMPA:** available for telephone advice for its members
- **CPSBC COVID-19 Updates:** <https://www.cpsbc.ca/news/COVID-19-updates>
- **CMPA COVID-19 Hub:** <https://www.cmpa-acpm.ca/en/covid19>
- **CMA Virtual Care Playbook:** [https://www.cma.ca/sites/default/files/pdf/Virtual-Care-Playbook\\_mar2020\\_E.pdf](https://www.cma.ca/sites/default/files/pdf/Virtual-Care-Playbook_mar2020_E.pdf)
- **Provincial Health Officer COVID-19 Page:** <https://www2.gov.bc.ca/gov/content/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/current-health-topics/covid-19-novel-coronavirus>
- **Doctors of BC Virtual Care Toolkit:** [https://www.doctorsofbc.ca/sites/default/files/dto\\_virtual\\_care\\_toolkit.pdf](https://www.doctorsofbc.ca/sites/default/files/dto_virtual_care_toolkit.pdf)
- **BCCDC COVID-19 Information:** <http://www.bccdc.ca/health-professionals/clinical-resources/covid-19-care>
- **New triplicate prescription pads:** Can be obtained from [rxpads@cpsbc.ca](mailto:rxpads@cpsbc.ca)

## Thanks to the speakers on the video:

- **Dr. Liisa Honey**, MD FRCS Physician Advisor, Practice Improvement, CMPA
- **Dr. Derek Puddester**, MD FRCS Deputy Registrar, Complaints and Practice Investigations, CPSBC
- **Dr. Heidi Oetter**, Registrar and CEO, CPSBC
- **Dr. Bruce Hobson**, Moderator