



The College of Naturopaths of Ontario



Guidelines

Conflict of Interest

Introduction

Naturopathic Doctors (NDs), like many health professionals, are in a unique relationship of trust with their patients and thus have a duty to act in the best interests of their patients who rely on them. NDs have access to personal and sensitive information and often work with people who may be vulnerable in various ways and as such have a professional responsibility to uphold the values of respect and trust. When an ND acts in a conflict of interest, these key values and confidence in the health care system are compromised. This guideline outlines situations that may constitute a conflict of interest and provides direction for members in dealing with these situations. It is important to note that it is professional misconduct to act in a professional capacity while in an unmanaged conflict of interest.

As a ND, you must protect the trust relationship between yourself and your patients. Do not place yourself in a position where a patient, or other person, might reasonably conclude that your professional expertise or judgment may be influenced by your personal interest, or that your personal interest may conflict with your duty to act in the best interests of your patients.

What is a Conflict of Interest?

A conflict of interest is created when a Naturopathic Doctor is in a position where a reasonable person could conclude that their professional judgment may be compromised or impaired. NDs must ensure that their professional judgment is not influenced by, and does not appear to be influenced by, any financial or other personal considerations. NDs should not be seen, or perceived, to give preferential treatment to any person or organization.

A conflict of interest may be direct or indirect, and may exist where a ND engages in any private or personal business, undertaking or other activity or has a relationship in which,

- the ND's private or personal interest directly or indirectly conflicts, may conflict or may reasonably be perceived to conflict, with his or her duties or responsibilities as a health care professional, or
- the ND's private or personal interest directly or indirectly influences or may reasonably be perceived as influencing, the exercise of the member's professional duties or responsibilities.

A direct conflict of interest is one in which the personal interests of the ND are involved. An indirect conflict of interest is one in which the personal interests of someone connected to the ND, such as a relative, friend or business associate, are involved.

A conflict of interest is often viewed in terms of monetary benefits. However, it may also be a result of non-monetary considerations such as boundary-crossing, such that the ND is meeting their own needs in the relationship to the detriment of the patient.

A conflict of interest may be actual, perceived or potential.

A real (actual) conflict of interest exists when a ND has a private or personal interest of which he or she is aware, that is connected with their professional responsibilities and would reasonably influence the ability to objectively carry out their duties. An actual conflict of interest exists whether or not the ND is subjectively influenced by the private interest and regardless of whether they obtain personal benefit.

An apparent (perceived) conflict of interest is where a neutral and informed person would reasonably conclude that the ND has been improperly influenced in how they carry out their duties, even if that is not actually the case.

A potential conflict of interest is where a neutral and informed person, would reasonably conclude that the ND may fail to fulfill their professional obligation to act in the best interest of the patient due to outside influences.

A conflict of interest, whether it is actual, perceived or potential, needs to be addressed and managed.

What is a Benefit?

Conflicts of Interest are often described as involving the receipt of a benefit that may conflict with one's duty to a patient. A benefit may be described as a financial or non-financial consideration to a Naturopathic Doctor that might reasonably conflict or appear to conflict with one's duty to a patient. Conflict of Interest concerns arise even where the benefit is conferred upon a person related to the ND or a company, corporation, business partnership or entity that is owned or controlled wholly, substantially or actually, directly or indirectly by the ND or a person related to the ND. Non-financial benefits may include personal gain or advantage; for example, in a research project a benefit that may influence treatment decisions or clinical activities.

Types of Conflict of Interest Situations

Naturopathic Doctors should address all conflicts of interest, whether actual or perceived. The following are common types of conflicts of interest that may arise in naturopathic practice.

1. Personal Benefit

A conflict of interest may exist when there is a receipt of a benefit that conflicts with an ND's responsibilities to a patient, or that may improperly influence the ND's ability to act in the best interest of the patient. Such a benefit may lead to an ND or a closely related person or corporation gaining materially, financially, professionally or personally. Professional judgment and practices are expected to be rendered in an objective and transparent manner without consideration of personal, financial or material gain.

2. Dual Relationships

A conflict of interest may exist when there is a dual relationship between a ND and a patient.

A dual relationship exists when a ND serves in the capacity of both ND and at least one other relationship with the same patient. The second relationship could be personal, social, financial or professional and may be concurrent or subsequent to the therapeutic relationship.

Examples of dual relationships include, but are not limited to, a patient who is also:

- an employer or employee of the ND;
- a teacher or student of the ND;
- a relative of the ND, either by blood, marriage or adoption;

- a person with whom the ND has, or has had, a significant personal relationship.

NDs should carefully consider whether it is appropriate to provide care where such a relationship exists.

NDs should not provide non-emergency care to a person with whom they are having, or have had, a sexual relationship.

3. Self-Referrals

A self-referral occurs when an ND working in one professional setting refers patients to him/herself in another professional setting in which the ND has an interest or gains any benefit. For example, a ND working in a gym as a personal trainer refers a patient to a clinic in which they have a financial interest instead of a colleague's clinic where they do not have a personal interest. Or where a Member is dual registered as both a naturopath and chiropractor and refers the patient to themselves in their other capacity in order to maximize the amount of insurance benefits they can get.

4. Paying for Referrals

A conflict of interest exists when a ND or anyone connected to them, either professionally or personally:

- offers, requests or accepts any benefit to or from any person for a referral; or
- permits the offering, requesting or accepting of any benefit to or from any person for a referral.

5. Inducements

A conflict of interest exists when a ND is offered or offers incentives to encourage business transactions. As a health care practitioner it is the duty of the ND to place the interest of the patient above personal financial gain.

To Patients

A conflict of interest exists when a patient is influenced by gifts or other inducements. Patients should be free to choose their ND based on relevant criteria such as reputation, skill, location or practice style. A nominal gift to a patient (e.g. a tablet dispenser or calendar) would generally be considered acceptable. However providing substantive inducements (e.g. free trip) for a patient to see the ND may create a conflict of interest.

By Suppliers

A conflict of interest exists when a ND is influenced by a significant inducement from a supplier. NDs should choose their suppliers of products, materials, service and equipment based on relevant criteria such as product formulation, quality and accessibility. A volume discount that is passed on to the patient, or a nominal gift given occasionally, may be considered acceptable.

6. Below Market Transactions

A conflict of interest may exist when a ND is offered below market rent or lease arrangements because there may be an implicit or explicit expectation of referrals to other tenants/occupants. For example, NDs renting space from a pharmacy or health food store owner at a lower than market cost may be expected to routinely refer patients for products, which would constitute a conflict of interest.

7. Fee Splitting

A conflict of interest exists when fee splitting arrangements require a ND to relinquish control over clinical and professional matters including the billing and scheduling of patients. This may not be in the best interest of the patient. It is acceptable for the clinic to administer the billing and scheduling in a fee splitting arrangement as long as the ND sets the billing and scheduling rules and monitors compliance with those rules.

8. Endorsements

A conflict of interest exists when an endorsement to the public results in a personal or financial benefit to the ND either directly or indirectly. Endorsements could mislead the public and compromise trust.

NDs may be employed by a manufacturer or supplier of natural health products or other service company for professional services or research and development under the following circumstances:

- payment for these services is on a salary or fee for service basis;
- the NDs name or identity is not used in advertising materials for the company.

Endorsements through the Media

A conflict of interest exists when a ND participates in advertising campaigns (e.g. television, radio, print or internet) where the ND endorses any product or services other than his or her own practice using their professional status to influence the public to purchase products or services.

Multi-level Marketing

A conflict of interest exists when a ND or anyone connected to them, either professionally or personally, solicits, allows the solicitation of, or involves patients in selling multi-level marketing products or devices for the direct or indirect benefit of the ND.

9. Sales

Working in Retail Sales

A conflict of interest may exist when a ND works in a retail setting related to health care.

When a ND offers advice related to the health care of an individual, including advice about supplements or health care products, this is always done in his/her capacity as a ND. Professional standards require that before any health care advice or service is offered, informed consent is obtained, there is an appropriate assessment, the recommendations are tailored to the individual patient and proper records are kept.

Working as a Commercial Sales Representative

It is acceptable for a Member to sell products and or services related to the practice of naturopathic medicine for a commercial company provided the sales are made to other health care professionals or retailers and not directly to the public.

10. Prescribing and Dispensing

A potential conflict of interest exists when a ND sells a scheduled drug that they also prescribed to a patient.

NDs are required to inform patients that they are not obligated to purchase products or drugs from the ND or any related source. Further, the ND should assure patients that a decision to purchase products or drugs elsewhere will not impact the patient's relationship with the ND.

When May I Provide Services if I am in a Conflict of Interest?

In some situations a Naturopathic Doctor should not provide a service to the patient at all (e.g. a patient who severely injured a ND's family member in a drunk driving accident). In other cases the patient may be in such a vulnerable or dependent position that disclosure of the conflict is an inadequate safeguard (e.g. a dependent family member). NDs should rely on their knowledge, skill and judgment to determine if a conflict of interest exists and should refer the patient where the conflict cannot be adequately managed. In some circumstances services can be provided by the ND with appropriate safeguards. In the event that a ND has a conflict of interest regarding a product or service, they should, at a minimum:

- disclose to the patient, prior to providing services or products, that they have a conflict of interest and the nature of the interest or benefit;
- inform the patient the option of selecting an alternate service provider or product (and, where one exists, provide the name of at least one comparable service provider or product);
- assure the patient that the services, products or care provided will not adversely be affected by the patient's selection of an alternate product or provider; and
- permit the patient to select which service provider or products he or she wants.

As with any interactions with patients, it is important to document all interactions with respect to conflict of interest.

Addressing Conflict of Interest Situations

The best approach to addressing conflict of interest situations is to avoid the conflict or refer the patient to another Naturopathic Doctor.

Once a ND becomes aware of a conflict of interest, and avoidance is not an option, the DORM principle may help in addressing the conflict.

The DORM (Disclosure, Options, Reassurance, Modification) principle

1. **Disclose** the benefit to the patient (e.g., "For every one of these products I sell, the company will enter me into a draw to win a free trip")
2. Provide **Options** to the patient (e.g., "you can purchase this product at other location including x and y");
3. **Reassure** the patient that their decision will not affect their relationship with you (e.g., a decision to buy this product elsewhere will not impact on our therapeutic relationship");
4. **Modify** the benefit to you (e.g., "a comparable product I can recommend where I would not receive a benefit is x").

Sometimes the first three elements are enough to address the conflict of interest. In addition there are some occasions where the DORM principle is insufficient (e.g., it is always unacceptable to confer a substantial benefit for referrals of patients).

Any reasonable appearance of conflict of interest, even if a conflict does not actually exist, needs to be addressed. For example, if the ND recommends a dietary supplement sold at his/her brother's store without being influenced by the financial benefit the brother will receive, a neutral observer may reasonably question the NDs motivation.

Scenarios

The following scenarios illustrate some common conflict of interest situations that NDs may encounter. These scenarios are intended to provoke introspection and discussion among peers.

1. Liza, ND, orders a significant volume of supplements on an annual basis. After reviewing three different suppliers X,Y and Z, who all make comparable supplements, she decided that supplier Z has the best quality and most effective supplements for treating her patients. After making her decision based on the needs of her patients, she learns that supplier Y will provide Liza with a 52" TV if she buys from him. Clearly if Liza chooses supplier Y on this basis, her professional judgment has been clouded by such an inducement. She chooses supplier Z and avoids the conflict of interest.
2. John owns a building and the health food store within it. He agrees to lease an office on the first floor to his sister Adele, ND. The terms of the lease are such that Adele is paying much less than market value for the premises. While nothing was said explicitly, the implication is that the lower rent is in exchange for sending patients to purchase products at the health food store. This situation may cause Adele to feel pressure to refer patients to a family member's business. Adele could resolve this conflict by paying market rent, disclosing to patients that her brother owns the store, and by providing other options for where patients can purchase products. Adele should also reassure patients that purchasing products elsewhere will not affect their therapeutic relationship.
3. Joelle is a member of another regulatory College who hires Jackie, a newly registered ND, to join her practice. Joelle stipulates that Jackie, ND should charge patients \$150 per visit regardless of the duration and pay Joelle 40%. Joelle also insists that Jackie recommend supplement X for every patient regardless of patient needs, health status or Jackie's professional opinion. Jackie should not agree to this arrangement. It is not in the best interest of the patient because Jackie has given up autonomy over professional matters including billing and prescribing.

4. John, ND, is working as a consultant for a natural health product company. For the launch of a new antioxidant product, the marketing department wants John to represent the company on TV, radio, internet clips, and various print media as their “expert” with 15 years naturopathic practice experience. In the advertisements, John is to help convey the antioxidant health claims to the public. John is also scheduled to consult with live TV and radio show participants on how to best use the new product. John will be paid a fee for each of these appearances as well as 5% of the increase in product sales. John should not agree to this arrangement. He would be using his professional status to publicly endorse a product; receiving commission for the sale of the product; and making recommendations without having done a proper assessment.
5. Nancy, ND, is seeking part-time work at a nearby health food store. When reviewing the contract, she notices that the health food store will promote Nancy by saying “The Naturopathic Doctor is in”. She will be expected to answer natural health product related questions for customers. Her income is based on a salary plus 5% of the sale of seasonal products such as Echinacea for cold/flu season. Nancy should not agree to this arrangement as it is inappropriate for NDs to provide health care advice in a retail setting.
6. Sofia, ND has a new patient, George, who has been previously diagnosed with type II diabetes. He is looking for help to manage his weight and has been to a number of other healthcare professionals with limited success. During the initial assessment, Sofia discovers that George’s lifestyle and habits are contributing to his health problems, but he is adamant that he will not make changes to his lifestyle and wants her to find an alternative course of treatment. Sofia knows that recommending to George that he modify his diet and exercise is in his best interest, and that other treatments will not be effective if he does not make these changes first, but she is concerned that he will be upset and that she will lose him as a patient. Sofia does not want to lose the income that George will provide from future visits and is unsure what to do. Sofia should recommend that George modify his diet and exercise, as this is what is best for his health and wellbeing. Not recommending the course of action that is in the patient’s best interest, out of fear that he/she will be upset and not come back is professional misconduct. Sofia needs to consider whether her decision is being motivated by the money or the health and safety of the patient.
7. David, ND’s father was recently diagnosed with diabetes. David’s father wants his son to teach him how to manage his diabetes. After all, he is his son and he’s very proud of him. David feels pretty confident that he can teach his father how to manage his diabetes. However, since he is still his son David is not sure that his dad will take all of his advice as seriously as he does from his family doctor. David should recommend that his father seek the professional advice of another ND or regulated health professional. Dual relationships with family members can interfere with the treatment process due to the emotional closeness and relationship histories of the family members. That emotional bond may easily compromise the NDs ability to provide honest, objective information. It can also compromise the family member’s ability to question the ND’s suggestions or to provide an informed consent.
8. Cathy, ND is dual registered as both a Naturopath and a Chiropractor. Fred who is a new patient comes to see Cathy for help sleeping. Fred has extended health insurance coverage through his employer up to a maximum of \$1000. When the insurance benefits for naturopathy runs out, Cathy refers Fred to herself in her capacity as a chiropractor as they will then be able to use the insurance benefits allocated for chiropractic. A member who is dual registered may refer a patient to themselves in their other capacity when clinically indicated and in the best interest of the patient. However this situation highlights a scenario where the referral was not clinically indicated but rather financially motivated.

Suggested Reading

Professional Misconduct Regulation
Standard of Practice for Conflict of Interest

Approval

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