

The College of Physicians & Surgeons of Alberta (CPSA) provides advice to the profession to support physicians in implementing the CPSA Standards of Practice. This advice does not define a standard of practice, nor should it be interpreted as legal advice.

Advice to the Profession documents are dynamic and may be edited or updated for clarity at any time. Please refer back to these articles regularly to ensure you are aware of the most recent advice. Major changes will be communicated to our members; however, minor edits may only be noted within the documents.

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## CPSA perspective

CPSA acknowledges that relationships between government and the workforce, including physicians, can be strained at times. Government priorities may not always align with the goals and values espoused by the workforce, which can lead to feelings of being undervalued and, in some circumstances, may lead to financial and viability issues.

During challenging times, emotions may run high; this document is intended to support physicians by offering guidance to those considering job action. We recognize and support physicians' rights and [responsibility to advocate](#) for the interests of their patients, themselves and the healthcare system as a whole. There may even be times when job action is appropriate<sup>1</sup>. This must be balanced with physicians' professional and ethical responsibility to not place their patients or the public at risk of significant harm. Our goal is to encourage physicians to make decisions consistent with the expectations of the medical profession while embracing their right to advocate.

CPSA recognizes the public, the medical profession, and the Government of Alberta are concerned with the quality and accessibility of health care. We also acknowledge the rights of physicians to withdraw their services under certain circumstances; CPSA recognizes its obligation to clearly communicate to all parties what it expects from the medical profession in Alberta during any withdrawal of services. The aim of the standard of practice is to clarify CPSA's position and expectations in the event that a regulated member chooses to withdraw services as part of a job action.

CPSA's sole focus is protecting the public and upholding the profession's reputation. Under the *Health Professions Act (HPA)*, if CPSA determines patients are at risk of harm due to job action and/or inadequate alternate resources, physicians may be directed to provide urgent/emergent care in accordance with the standard. However, if a physician follows the *Job Action* standard, the risk of the *HPA* being enacted in this matter is low. By instituting this standard of practice, CPSA does not intend to judge or comment on the position of any organization or individual on any side of a negotiation.

## What is job action?

For the purpose of this advice document, "job action" is defined as the threatened or actual withdrawal of physician services in response to a dispute specifically to leverage a negotiating position with government. Physician services are services that patients, regional health authorities and governments expect publicly funded physicians to provide as part of the contract between the government and the medical profession.

Job action is not the individual decision to close or leave a medical practice or to change the pattern of practice based on financial realities, unless these actions are intended to

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<sup>1</sup> CPSA would determine whether there has been non-compliance with the *Job Action* or other standards of practice and/or a breach of the CMA's *Code of Ethics and Professionalism* based on the unique facts and circumstances of each situation.

compromise access to physician services to further a negotiating position for a physician's personal gain. For example, if proposed changes will render a service financially unviable, it would not be considered job action to stop providing the service as long as there is some notification and it's not meant as a threat to leverage a negotiating position. Nothing prevents a physician from planning ahead or planning around their practice. When closing, leaving or making changes to their scope of practice, physicians must abide by the relevant standards of practice described below.

In addition to acting in compliance with CPSA's [Job Action](#) and other [standards of practice](#), physicians are also obligated to act in accordance with the Canadian Medical Association's [Code of Ethics and Professionalism](#), which states that physicians must "consider first the well-being of the patient" and "always to act to benefit the patient and promote the good of the patient." The ultimate responsibility for any withdrawal rests with each individual physician to act in the public interest and to ensure their actions are consistent with the ethical and professional standards expected of registrants.

## Duty of care

Physicians **must not** withdraw services or threaten to withdraw services with the direct or indirect purpose of supporting job action if such action could put the immediate health of patients or the public at significant risk.

Even during job actions, physicians must continue to provide medical care that is urgent, or otherwise necessary to prevent harm, suffering and/or deterioration. This includes ensuring healthcare concerns are assessed and appropriately triaged so that urgent and/or necessary medical care can be obtained.

Physicians have a duty of care to patients with whom there is an [established relationship](#), the public who relies on the care of physicians to provide emergency care in hospitals<sup>2</sup>, and potentially where their advice will be relied upon to make clinical care decisions<sup>3</sup>.

## Contingency plans

Having a contingency plan in place will help mitigate risk of harm. Contingency planning involves identifying and monitoring the risks, vulnerabilities and capacities of your practice

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<sup>2</sup> From Royal College's Bioethics Case 7.2.2: [Professional Obligations in the Face of Risks to Personal Health](#).

<sup>3</sup> From Canadian Medical Protective Association's Safety of Care: [If a colleague relies on your professional opinion, you may have a duty of care](#).

location(s)<sup>4</sup>. At a minimum, any physician participating in job action must have a system in place to triage, assess and manage patient concerns to ensure no patient is denied management of an urgent concern.

Physicians should also consider access to patient records, clear messaging on office hours, and alternative sources of care and what patients should do in an emergency. Additional considerations include office staff and general office/business-related matters. Any correspondence that would normally come to a physician's attention (e.g., phone messages, faxes, EMR alerts, consult reports, mail) must still be adequately addressed.

Contingency plans will look different based on whether a physician works in a rural or urban setting. Physicians may need to work with colleagues in neighbouring towns or working with AHS or PCNs to ensure a plan is in place.

## **Alternative options**

All other alternatives to job actions must be considered before withdrawing services. The alternative options would vary depending on the nature of the concern and circumstances of each case. For example, in a clinic or hospital setting, physicians could consult with an ombudsperson, relevant committee, senior management, board of directors, etc., in accordance with its established policies/procedures, as applicable<sup>5</sup>.

## **Urgent/emergent care**

There is no simple answer in defining what is considered urgent/emergent care, as urgency is dependent on many factors in each unique clinical context. Along with using your clinical judgment, consider what a colleague would deem appropriate: if you were being judged by another member of your specialty, would they consider your actions reasonable?

CPSA's expectation is that physicians will collaborate with colleagues in similar practices when making these decisions. It's important to share best evidence, get advice from guiding professional organizations and draw on your personal experience. This will help guide practice and decrease some of the pressure physicians may feel to ensure they are making the best choices possible under difficult circumstances.

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<sup>4</sup> From The World Health Organization's [Guidance for Contingency Planning](#).

<sup>5</sup> From the College of Physicians & Surgeons of Ontario's Advice to the Profession: [Providing Physician Services during Job Actions](#).

## Practice-specific considerations

Before proceeding with a withdrawal of services, physicians need to consider the nature and location of their practice, as well as the availability and adequacy of alternative resources.

For example, a physician in a rural area with no other healthcare provider will be putting patients and the general public at risk if they proceed with job action; if the physicians in a nearby town are willing and able to accept patient care transfers, this risk may be mitigated. However, if the nearby town does not have the capacity to manage patient care, job action may not be advisable.

## Continuity of care

Physicians have obligations of [continuity of care](#) to patients when a [physician-patient relationship is established](#) where there is an expectation that care provided will extend beyond a [single encounter](#).

If taking job action, individual physicians **must** ensure they have a plan in place to mitigate the adverse impact on their patients and/or the public and to act in a manner that maintains public trust.

If withdrawal of services is part of a job action, the plan **must** include a triage system to ensure urgent medical care is available to patients at significant risk to prevent harm or suffering. What constitutes significant risk will be a clinical judgment informed by the patient's health status and individual circumstances.

Additionally, physicians need to maintain awareness of how their withdrawal of services impacts their patients and the public. For example, if for a third night in a row a patient codes in the ER and passes away, physicians need to be prepared to return to work to mitigate additional risk.

## COMPLEX PATIENTS

Some physicians may choose to modify patterns of practice to ensure practice sustainability, and it is important to be aware of the difficulties this may cause for complex and vulnerable patients. Physicians must abide by the [Alberta Human Rights Act](#), which prohibits discrimination in services customarily available to the public on a number of grounds, including physical or mental disability. Physicians cannot limit services to exclude patients with complex medical problems who require additional time and attention.

## Written notification of job action

While the idea of providing notice may seem contradictory to the concept of job action, physicians must make an effort to communicate their intention to withdraw services to the appropriate bodies with as much advance notice as possible depending on the specific circumstances.

## Group withdrawal of services

A group of physicians in a community or a medical service in a regional health authority facility may engage in a withdrawal of services to support job action only if the same does not pose a significant risk of harm to patients and the public, and they must:

- consider the nature and location of the physicians' practice and the patient population served;
- consider the availability and adequacy of alternative resources for the care, ongoing monitoring and transfer of patients;
- follow applicable [Change in Privileges and Termination of Appointment](#) procedures as outlined in [AHS bylaws](#);
- establish arrangements for communication or consultation to ensure the appropriate [transfer of care](#) of patients to other physicians or facilities: there must be a physician available to assess the patient prior to transfer, and a process or protocol in place which would include physician-to-physician communication;
- provide written notification of the intended withdrawal of services to medical directors and others involved in the delivery of hospital and medical services. The period of notice (e.g., up to 90 days) may vary depending upon the specific circumstances, but must be reasonable to allow the hospital or health authority an opportunity to review with the physicians the nature, extent and impact of the proposed action, and to consider any arrangements that need to be made in response;
- arrange for adequate continuity of patient care ; and
- continue to provide care for currently ill or recovering patients for whom they have a responsibility and establish an appropriate contingency plan for patient care to deal with unforeseen emergency situations, including the designation of an on-call physician.

CPSA considers complete withdrawal of services by an entire group of physicians in a community or regional health authority medical service to be in violation of the [Job Action](#) standard if it is for the sole purpose of leveraging a negotiating position.

In under-serviced situations where medical services are provided by a very small number of physicians, CPSA recognizes the burden for access to care for a community cannot rest on an individual physician alone. In these situations, CPSA expects physicians choosing to permanently close or leave their practices will do so in accordance with CPSA's [Closing or Leaving a Medical Practice](#) standard and, whenever possible, in collaboration with the regional health authority.

[If a concern is brought](#) to the attention of CPSA related to the provision of medical services during a job action, the Complaints Director will determine the appropriateness of a job action based on the unique facts and circumstances of the situation.

## Resources

CPSA team members are available to speak with physicians who have questions or concerns. Please contact Chantelle Dick, Standards of Practice Advisor, at 780-717-2573 or [chantelle.dick@cpsa.ab.ca](mailto:chantelle.dick@cpsa.ab.ca).

Physicians experiencing stress or symptoms of burnout can receive confidential support from the Alberta Medical Association's [Physician and Family Support Program](#) at 1-877-767-4637.

## RELATED STANDARDS OF PRACTICE

- [Closing or Leaving a Medical Practice](#)
- [Code of Ethics & Professionalism](#)
- [Conflict of Interest](#)
- [Continuity of Care](#)
- [Episodic Care](#)
- [Establishing the Physician-Patient Relationship](#)
- [Job Action](#)
- [Relocating a Medical Practice](#)
- [Transfer of Care](#)

## COMPANION RESOURCES

- Advice to the Profession documents:
  - [Closing or Leaving a Medical Practice](#)
  - [Continuity of Care](#)
  - [Episodic Care](#)
- CMPA's [Advocacy for change: An important role to undertake with care](#)