

## DIAGNOSTIC FACILITY CONFLICT OF INTEREST POLICY

### 1. DEFINITIONS

In this Diagnostic Facility Conflict of Interest Policy:

**“application”** means an application for a new diagnostic facility or the relocation or expansion of an existing facility or a transfer of material financial interest in or concerning a diagnostic facility.

**“Beneficiaries”** means, as defined in Section 1 of the *Medicare Protection Act* (the “MPA”), “a resident who is enrolled in accordance with Section 7.2, and includes the resident's child if the child is enrolled under Section 7.2 [of the MPA].”

**“Benefits”** means, as defined in Section 1 of the MPA,

“(a) medically required services rendered by a medical practitioner who is enrolled under Section 13, unless the services are determined under Section 5 by the commission not to be benefits,

(b) required services prescribed as benefits under Section 51 and rendered by a health care practitioner who is enrolled under Section 13, or

(c) unless determined by the commission under Section 5 not to be benefits, medically required services performed

(i) in an approved diagnostic facility, and

(ii) by or under the supervision of an enrolled medical practitioner who is acting

(A) on order of a person in a prescribed category of persons, or

(B) in accordance with protocols approved by the commission;”

**“benefit”** means an advantage, gift, or profit gained.

**“declarant”** means a person who makes a declaration statement pursuant to this Conflict of Interest policy.

**“diagnostic facility”** means, for the purposes of this policy, a Medical Services Commission- or Advisory Committee on Diagnostic Facilities-approved diagnostic facility.

**“family members”** means

- (i) a spouse;
- (ii) a son or daughter;
- (iii) a step-son or step-daughter;
- (iv) a parent or step-parent;
- (v) a mother-in-law or father-in-law;
- (vi) a grandparent;

- (vii) a grandchild;
- (viii) a brother or sister; or
- (ix) a spouse of a person referred to in paragraphs (ii) to (viii).

**“Medical Services Plan” (MSP)** means, as defined in Section 1 of the MPA, “the Medical Services Plan continued under Section 3 [of the MPA];”

**“practitioner”** means, as defined in Section 1 of the MPA,

“(a) a medical practitioner, or

(b) a health care practitioner

who is enrolled under Section 13 [of the MPA];”

## 2. PURPOSE OF THE POLICY

The purpose of this Diagnostic Facility Conflict of Interest Policy (the “Policy”) is to protect the integrity of the Medical Services Plan by establishing conflict of interest standards in respect of diagnostic facilities and their owners, to ensure that personal interests, financial or otherwise, do not conflict with Beneficiaries’ interests with respect to medical care/diagnostic services. This Policy aims to ensure that conflicts of interest are identified and managed in a timely and proactive manner.

The Medical Services Commission (MSC) has approved the Policy to assist persons who own or intend to own a diagnostic facility meet their conflict of interest obligations with respect to their diagnostic facility and Beneficiaries.

## 3. SCOPE OF CONFLICT OF INTEREST

A conflict of interest arises where there is an actual or potential discrepancy between a person’s (for example, a practitioner’s) duty to act in someone else’s interest (for example, a patient’s) and the personal interest of that person.

A conflict of interest can be real, potential or perceived and may arise in a wide variety of circumstances. Direct financial or material gain is not necessary for a conflict of interest to exist. Indirect financial interest or other benefit may also give rise to a conflict of interest. Thus, a conflict of interest may occur, for instance, where the real, potential, or perceived benefits accrue or would accrue to the person’s family members or business associate(s).

As prescribed by Subsection 43(1)(b) of the Medical and Health Care Services Regulation, B.C. Reg. 426/97 (the “Regulation”), it is a condition of every Certificate of Approval granted that a diagnostic facility must not render Benefits in respect of a Beneficiary on the referral of a practitioner who, directly or indirectly, would receive financial profit or other material benefit as a result of those services being rendered by the diagnostic facility unless the Certificate of Approval issued to the diagnostic facility authorizes the diagnostic facility to accept referrals from that particular practitioner.

Without limiting the generality or scope of potential conflicts of interest, the following circumstances are illustrative of situations which may constitute or give rise to potential conflicts of interest in the context of diagnostic facilities:

- any practitioners included in the ownership of a diagnostic facility, where that practitioner could make referrals to the diagnostic facility to which he or she holds ownership interest;
- any practitioners who make referrals to the subject diagnostic facility, where that practitioner receives or could receive financial or material benefit from making such referral;
- ownership of a diagnostic facility that includes practitioners, family members, or other persons who also work at or are employed by a publicly-owned diagnostic facility and that publicly-owned diagnostic facility is reasonably likely to vie for referrals from some of the same practitioners as the other diagnostic facility;
- any additional interest, affiliation or relationship with a practitioner, diagnostic facility, or other person/entity which may create, or could reasonably be perceived as creating, a conflict of interest.

#### 4. DISCLOSURES OF CONFLICTS OF INTEREST

At time of application:

In accordance with Subsection 39(1)(f) of the Regulation and this Policy, a person who owns or intends to own a diagnostic facility must submit the Conflict of Interest Disclosure Form (**Appendix B**) to the Advisory Committee on Diagnostic Facilities (ACDF) regarding an actual or potential conflict of interest that arises or may arise in relation to a diagnostic facility. Both a Conflict of Interest Disclosure Form (**Appendix B**) and a Conflict of Interest Declaration Form (**Appendix A**) are required with any application.

Ongoing duty:

Additionally, at any time circumstances exist or arise that may constitute or give rise to a conflict of interest with respect to a diagnostic facility, a person who owns or intends to own a diagnostic facility must complete and submit the Conflict of Interest Disclosure Form (**Appendix B**) to the ACDF as soon as it is practicable.

#### 5. PROCESS FOR DETERMINING EXISTENCE OF CONFLICT OF INTEREST

Upon receipt of a Conflict of Interest Disclosure Form or learning of a potential conflict of interest by any other means, the ACDF will determine if there is a conflict of interest in relation to a specific diagnostic facility.

If it is determined that the relevant circumstances or interests amount to a conflict of interest in relation to a specific diagnostic facility, the ACDF may recommend denial of an application or impose conditions on the Certificate of Approval in accordance with Subsection 33(1)(c) of the *Medicare Protection Act* (MPA) and Subsections 40(2) and (3) of the Regulation.

If an actual or potential conflict of interest is found by the ACDF to exist, and that conflict of interest has not been endorsed and approved on an applicable Certificates of Approval in relation to the diagnostic facility in question, the ACDF will refer the matter to the MSC.

## 6. CONFIDENTIALITY

The information contained in any declaration or statement, respecting a conflict of interest shall remain confidential to the ACDF and MSC (members/staff/associates), subject to any requirement to disclose, as may be required by law.

## 7. AMENDMENT TO THE CONFLICT OF INTEREST POLICY

This Policy may be amended by the MSC at any time.

**APPENDIX A - CONFLICT OF INTEREST DECLARATION FORM**

**To: Secretariat and Chair, ACDF**

I have read and understood the Diagnostic Facility Conflict of Interest Policy (the “Policy”), and I undertake to be bound by the obligations contained therein.

I understand that it is my responsibility to report to the ACDF the information described in the Policy, and I undertake to do so.

I understand that the information I disclose will be held by the ACDF and that the information may be shared with members of the MSC, as necessary.

I agree to inform the ACDF of any change in circumstances that may give rise to a conflict of interest with respect to a diagnostic facility, as soon as it is practicable.

**ATTENTION:** The person completing/signing this Declaration Form (the “Declarant”) must be duly authorized to make the declaration on behalf of the person/entity submitting an application.

**Name of diagnostic facility** to which this conflict of interest declaration is in respect of:

\_\_\_\_\_

**Declarant**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

## APPENDIX B - CONFLICT OF INTEREST DISCLOSURE FORM

To: Secretariat and Chair, ACDF

Is there a (potential) conflict of interest to disclose in relation to the diagnostic facility? Check one:

- Yes, there is a (potential) conflict of interest to disclose in relation to the diagnostic facility.  
If yes, provide details of the (potential) conflict of interest in Parts I and II of **Appendix B**.
- I am unsure if the circumstances constitute, or may constitute, a (potential) conflict of interest.  
If unsure, provide details of the potential conflict of interest Parts I and II of **Appendix B**.
- No, there is no conflict to interest to disclose in relation to the diagnostic facility.  
If no conflict of interest is indicated, **Appendix B** must be completed by signing and completing the signature block information found at the end of this **Appendix B** Disclosure Form.

If applicable, on the following pages, provide full detail and circumstances that relate to potential conflicts of interest by completing Parts I and II.

**ATTENTION:** The person completing/signing this Disclosure Form (the “Declarant”) must be duly authorized to make the declaration/disclosure on behalf of the subject person/entity, that is, the person who owns or intends to own the diagnostic facility (as applicable).

**Part I**

Expand space and/or append additional pages as necessary, to provide all relevant information.

Diagnostic Facility Name(s):	The names of all relevant practitioners, family members, diagnostic facility owners (including the declarant) or business associates who hold or may hold a relevant financial or material interest	Any relevant affiliations or relationships with the owner or intended owner of the diagnostic facility and the details of any interest or benefit that may relate to a conflict of interest	Any other information, including dates, that is relevant to understanding and assessing the nature, scope and degree/extent of potential conflicts of interest

**Part II**

In the space below, provide any additional information (not covered in Part I) that is relevant to understanding and assessing the nature, scope and degree/extent of potential conflicts of interest. Include any detail regarding proposed avoidance or mitigation measures relating to any actual or potential conflicts of interest. Expand box/space and/or append additional pages as necessary, to provide all relevant information.

---

**Name of diagnostic facility** to which this conflict of interest declaration is in respect of:

---

**Declarant**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_