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**New Brunswick College of Pharmacists**  
**Ordre des pharmaciens du Nouveau-Brunswick**

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# Commentary: Conscientious Objection

Companion document to [Code of Ethics](#) (Policy GM-PP-CE-01)

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## **ACRONYMS**

CO	Conscientious Objection
CoE	Code of Ethics
VBDM	Values-Based Decision Making

## **LEARNING OBJECTIVES**

This document guides pharmacy professionals in dealing with a personal conscientious objection (CO) to providing a particular clinical service. It also provides support to colleagues practicing with peers who elect to exercise CO.

After reviewing this document, the reader will be able to:

1. Define CO
2. Apply Values-Based Decision Making (VBDM) to cases of CO
3. Understand the position of the New Brunswick College of Pharmacists (the College) on CO
4. Develop a plan to ensure patients' right to receive prescriptions and pharmaceutical care/medication management services is achieved despite the professional exercising CO
5. Maintain the plan for negotiating CO in practice

## **AUDIENCE**

This document is relevant to:

- Members with CO
- Pharmacy Managers who supervise staff with CO
- All Registrants

## INTRODUCTION

This Commentary was developed as companion guidance to the New Brunswick College of Pharmacists Code of Ethics. Commentary is authored for particular ethical dilemmas that, due to their complexity, controversy or breadth and/or magnitude of risk to stakeholders, may require expansion. Conscientious Objection (CO) can be described as sincere beliefs of a conscientious nature that are often moral or ethical constructs that prevent the member from performing certain actions. Therefore, CO would meet the criteria of complex and controversial.

Patients must receive effective and timely care relating to medication. There is risk to effective and timely care when a member's CO intersects with a patient's care. The breadth and magnitude of risk is discussed later in this document.

## KEY MESSAGES

- The Charter of Rights and Freedoms enshrines moral and religious freedom in Canadian law
- CO is one type of personal interest that may conflict with bioethical principles
- CO is never justification for a patient to be refused effective and timely care
- Instances of CO must not impose 'undue burden' on patients. Undue burden for each patient may be different depending on the treatment, geographic location, socioeconomic status or age
- Refusing to provide care secondary to CO does not eliminate the possibility of repercussions to the objecting professional. Situations where a CO results in a patient experiencing negative outcome may be referred to the complaints and discipline committees of the College for consideration.
- Members who opt to not participate in a component of patient care secondary to a CO:
  - Are obliged to minimize risk to patients through advanced planning to ensure patients receive effective and timely care.
  - Must ensure the patient is provided information about the treatment and be referred (if referral does not pose undue risk to the patient) for care that is generally considered within the scope of pharmacy
  - May reduce their risk of experiencing disciplinary action by developing and following a well-designed plan for navigating their CO
  - Are not obliged to describe/justify their specific CO to the College
- Bioethics continues to evolve. The degree of public acceptance and philosophical support for healthcare professionals refusing to provide patient care predicated on CO may change. College commentary will adjust accordingly.

## BACKGROUND

Conscientious Objection (CO) is defined in the New Brunswick College of Pharmacists Code of Ethics [\[LINK\]](#) as,

*“an opinion held by a professional that precludes participation in the delivery of an aspect of patient care.”*

The Code of Ethics (CoE) further states,

*If the service is permitted legally then a claim to conscientious objection means that, “but for”, the conscientious objection the member would normally have a duty to provide the service.*

The CoE outlines the four bioethical principles that professionals are required to uphold. Interests outside these bioethical principles may be organizational-interest or self-interest. Types of self-interest include financial (insufficient remuneration), fear (infection, disease or personal injury), inconvenience (time pressures) and **conscience**. These interests may be in conflict with the bioethical principles and conceivably constitute barriers to patients receiving care.

The College applies a risk-based assessment to all practice issues through the following formula:

$$\text{Risk Score} = \text{Magnitude of harm from an event} \times \text{Frequency of event}$$

In the case of CO, the risk of a patient experiencing a negative outcome due to a pharmacy professional acting on their CO is difficult to quantify. The unknown frequency of CO in pharmacy professionals coupled with the wide ranging magnitude of harm (negligible to substantial) to a patient being refused care secondary to CO results in an unknown risk score.

CO impacts can vary depending on the treatment, patient age, socioeconomic status and geographic location. This may lead to unfair disparities in access to service. In addition, the public trust in the pharmacy profession may be negatively impacted if CO is poorly exercised. These factors (unknown risk, disparity and eroding trust) coupled with the complexity of exercising CO suggests further commentary on this subject is necessary.

## PROCESS

In 2017, the College conducted stakeholder feedback on a draft CoE. Coinciding with stakeholder feedback on the CoE, the field of Bioethics was examining whether the right to CO applied to healthcare professionals given their duties to the public and their duty to uphold the integrity of the profession.<sup>1-3</sup> The College identified that recent public discourse on CO should be considered in the establishment of a new CoE and the topic was discussed at College meetings throughout the province. While the College has determined a position on CO in pharmacy, public sentiment in conjunction with legal precedent over time may result in changes to how regulatory authorities address situations involving CO. College position and commentary will adjust accordingly.

In generating an approach to CO, the College considered:

1. The *Charter of Rights and Freedoms*<sup>4</sup> guarantees the right to freedom of conscience. The recent Supreme Court of Canada decision in *Carter 2015* and the much older *Morgentaler 1988* seem to establish, at least, a *prima facie* charter right to conscientious objection for health professionals.
2. Individuals are free to hold whatever conscientious beliefs they feel they need to hold.
3. It is not possible to judge whether objections of a moral or religious nature (CO) are rational or logical.

4. The main limit on individual CO is when it interferes with the rights of others.
5. Pharmacy professionals are monopoly providers who voluntarily joined the profession. The services they provide are legally permitted, consistent with the objectives of the profession and have been prescribed to the patient.
6. Public allowances for health care professionals' right to CO are evolving and guidance from the College must be consistent with recent legislation, court decisions and public sentiment.

**The above facts set up the position debate:**

Obligations of a pharmacy professional to provide approved, evidence-based care prevail over the CO of the individual professional. Individual professionals should not be entitled to use reasons of conscience to refuse to deliver services to patients.

vs.

Individual professional CO to meeting a particular professional obligation must be protected. Individual professionals should be entitled to use reasons of conscience to refuse provision of patient services

**ANALYSIS**

The mandate of the College is to protect the public interest. To disallow a professional from acting on CO would place the public's interest above that of the professionals however, to place such a limit on a constitutionally-protected right does not provide a proportionate solution. A broad prohibition on exercising CO may not be required because in some cases exercising CO may not have a perceptible impact on a patient. Therefore a more appropriate and proportionate position was established.

**POSITION ON CONSCIENTIOUS OBJECTION**

The College recognizes the importance of respecting the rights of both the member (to the extent possible) and the patient.

As such, members with CO will exercise their right to object while ensuring the patient receives effective and timely care in a respectful and non-judgmental interaction. This is accomplished through members developing a personal plan for CO that reduces patient risk and also, ideally, allows the professional to act in congruence with their belief.

To aid pharmacy professionals with CO, appendices at the end of this document provide specific information and tools designed to facilitate advanced planning for the event when a patient requests care that contravenes personal conscience.

Importantly, there are absolute limitations to claiming the right to CO such as when the refusal is based on discrimination (race, religion, sexual orientation) or when the refusal is general (the objection must be to a specific clinical service). Also, in cases of medical emergency (situations where compromised

respiration and/or circulation may result in death or long-term disability), members may not cite CO as a reason to decline participation in patient care.

In order to better estimate the risk to patients secondary to CO, the number of plans developed will be monitored. Members will attest to completing plans for navigating their CO on their member profile.

## **APPLICATION OF THE CODE OF ETHICS TO CASES OF CONSCIENTIOUS OBJECTION**

### **Values Based Decision Making (VBDM)**

The reader is advised to view the introductory VBDM materials on the College website [[LINK](#)].

VBDM as it relates to the ethical practice of pharmacy applies two values to every professional action:

1. Promote and protect the health, well-being, safety and interests of patients (public)
2. Hold forth the independence, integrity and honour of the profession

As such, members have a duty to habitually ask themselves:

1. Will what I am about to do result in promoting and protecting the health, well-being, safety and interests of the patient?
2. Will what I am about to do hold forth the independence, integrity and honour of the profession?

In addition, the professional action taken must be performed:

- in the correct manner,
- at the correct time,
- with the correct people and
- for the correct reasons.

The sample action plan (Appendix 4) at the conclusion of this document provides an example of how VBDM applies to a situation where a pharmacy professional exercises their right to CO.

### **Bioethical Principles**

The four principles are:

1. Beneficence
2. Non-Maleficence
3. Respect for Persons
4. Justice

These principles can be used to categorize conflicting needs or wishes between interacting parties. In the case of CO, the value held by the member does not conform to the bioethical principles of Beneficence and Justice. The member, by exercising their right to CO, is prioritising their belief over the best interest of the patient (Beneficence).

The member may also be prioritizing their belief over patient access to services regardless of geographic or socioeconomic variables. CO may have a greater impact on patients in lower socioeconomic circumstances, rural environments or age groups. This is an example of a belief that is in conflict with the bioethical principle of Justice.

## CONCLUSION

Patients must receive effective and timely care. Where a CO exists, members must prepare for the possible occasion when their personal belief conflicts with the needs of their patients. Planning care in the context of CO eases the risk to patients while attempting to balance the professional's right to personally held values.

## CITATIONS

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2. Schuklenk U, Smalling R. Why medical professionals have no moral claim to conscientious objection accommodation in liberal democracies. .
3. Smalling R, Schuklenk U. Against the accommodation of subjective healthcare provider beliefs in medicine: Counteracting supporters of conscientious objector accommodation arguments.
4. Government of Canada. Constitution act, part 1 Canadian charter of rights and freedoms.1982:Section 2.
5. Deans Z. Conscientious refusals in pharmacy practice. *Philos Iss Pharma*. 2017;122:153.

## APPENDIX 1: PLANNING CARE IN THE CONTEXT OF CONSCIENTIOUS OBJECTION

All members with a CO should be take the following steps to ensure CO does not undermine patients' access to care. Members may prepare their plan in the format that best fits their specific situation.

- Activity 1** Describe their CO to their supervisor/manager. The College should not be made aware of the nature of the CO.
- Activity 2** Create a plan for mitigating risk to patients.
- Activity 3** Make preparations for plan execution. Contact local supporting professionals (inter and intra-professional health care professionals) who are instrumental in actioning the plan. Contact psychological/spiritual counselors to ensure supports to the plan are in place in the event the plan leads to providing care that does not conform to beliefs and values (worst case scenario).
- Activity 4** Attest to completing the CO action plan within the member's College profile
- Activity 5** Review and adjust the plan when factors change (e.g., personal beliefs and values, peer support, practice location or staffing levels)

## **APPENDIX 2: FAQs**

### **Should I tell the patient why I am refusing to provide care?**

Generally, no. This could result in the patient perceiving a moral judgment on their character. You should as seamlessly as possible, signal a substitute professional to replace you in the interaction as per your individual plan for CO.

### **What if the patient asks me why I am not providing the requested service?**

If the patient directly asks the reason for your non-involvement, you should be truthful while maintaining sensitivity to the patient's situation.

### **Could our pharmacy post a notice that a given therapy is not available at our pharmacy?**

Providing advance notice of what services the pharmacy does not provide could potentially reduce the number of patients requesting this treatment. However, it also could place an unreasonable burden on the patient since there is no opportunity for the professional to provide a referral. This approach also does not allow the professional to establish if there is justification for their objection to be subjugated for the good of the patient. The simple removal of the service does not eliminate the obligation to provide the service or redirect the patient (if appropriate). Pharmacists have a duty not only to those with whom they directly interact but also with the community at large and should not discourage the community from seeking the particular intervention in question.<sup>5</sup>

### **How will the College use my attestation of having a CO plan that I declare on my member profile?**

The purpose of the attestation of having a plan is to ensure the member has a plan in place to reduce the risk to a patient presenting with a request for treatment the member objects to. The number of attestations in aggregate may allow the College to understand the prevalence of CO within the pharmacy profession and thereby estimate the degree of risk CO presents to the NB public.

### **Can I submit my plan to the College?**

While the College is not collecting these plans, if the member requires guidance on the topic of CO or assistance in plan development, the College is available to assist members via e-mail or telephone communication.

### **Must I divulge the nature of my CO to the College?**

Members are not obligated to declare the nature of their CO to the College. Where a member's CO is the basis (in part or whole) for a complaint to the College, it may be necessary to discuss the CO in the course of the complaints and discipline process.

### **If I practice in an environment where it is impossible that my CO will impact on patient access to care, do I need to take any action?**

No. It is quite possible (and encouraged) that pharmacy professionals practice in an environment that does not involve the care that the member objects to. For instance, if a professional practices in paediatrics and has an objection to a treatment only provided to adults then there would be no risk to the patient and no need to develop an advanced plan for dealing with the CO.

### APPENDIX 3: FURTHER RESOURCES ON CONSCIENTIOUS OBJECTION

- College of Physicians and Surgeons of Ontario. Policy Statement #2-15: Professional Obligations and Human Rights. 2015;1. Available at: <http://www.cpso.on.ca/CPSO/media/documents/Policies/Policy-Items/Human-Rights.pdf?ext=.pdf>
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- Canadian Nurses Association. Code of Ethics for Registered Nurses 2017: 35-37. Available at: <https://www.cna-aiic.ca/~media/cna/page-content/pdf-en/code-of-ethics-2017-edition-secure-interactive>
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- Government of Canada. Constitution act, part 1 Canadian charter of rights and freedoms.1982: Section 2. Available at: <http://laws-lois.justice.gc.ca/eng/Const/page-15.html>

## APPENDIX 4: EXAMPLE OF CO ACTION PLAN

Eleanor White is a community pharmacist practicing in a small town in central New Brunswick. She has a conscientious objection (CO) to treatment “X” for indication “ABC”<sup>1</sup>. She and the pharmacy manager are the only pharmacists in the practice and they have one pharmacy technician from 9 a.m. to 5 p.m. on weekdays. Ms. White and the pharmacy manager alternate weekends and she covers Monday to Wednesdays and the pharmacy manager Thursdays and Fridays. There is one other pharmacy in the town and it is not open on weekends. Upon the publication of the College’s draft Code of Ethics (CoE), Eleanor White realized that her CO to the provision of medication management to patients requiring treatment “X” for indication “ABC” posed a conceivable risk to her patients. For many years she had managed to avoid dealing with patients requesting care using these rarely-used agents either through feigning illness and having another pharmacist deal with the patient or by claiming the medication was not currently stocked in her pharmacy. Recently there is increasing use of the treatment subsequent therapeutic guidelines recommending it as an agent of choice. She realizes there is now a greater risk that she will find herself in a situation where her belief is in conflict with patient need. She reflects on the two major questions applying to Values Based Decision Making (VBDM) in the context of being presented with a prescription for this medication:

1. Will what I am about to do result in promoting and protecting the health, well-being, safety and interests of the public and/or patient?
2. Will what I am about to do hold forth the independence, integrity and honour of the profession?

Her answers are:

1. Therapeutic guidelines of therapy of choice for indication ABC indicates strong evidence for treatment “X” and as such, acting on my belief regarding this agent would not promote or protect the health, well-being or interests of patients. My beliefs may be in contravention of the bioethical principle, Respect for Persons in that their wishes are important. Beneficence to the patient may also be impacted if the individual foregoes or is delayed in receiving what is considered to be evidence-based treatment of choice.
2. Exercising my right to CO would not hold forth the integrity or honour of the profession given the established effectiveness of “X” for indication ABC. In addition the treatment is in the normal scope of practice of pharmacy and society expects me to provide clinical service pertaining to treatment.

She reviews the New Brunswick College of Pharmacists Commentary: Conscientious Objection and begins the work involved in safely and successfully managing her practice while potentially exercising her CO. She experiences difficulty in reconciling her belief with this component of pharmacy practice.

### Activity 1:

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<sup>1</sup> “X” and “ABC” is used purposefully in order to highlight that a member may deem any service objectionable. Using “X” also eliminates the distraction of a judgement on the part of the reader as to whether this is a service that merits conscientious objection.

Describe their CO to their supervisor/manager. The College should not be informed of the nature of the CO unless the member or the member's manager requires guidance in addressing the member's CO plan.

Ms. White schedules a meeting with the pharmacy manager to inform her that she has a CO to providing treatment "X". The pharmacy manager ultimately respects this pharmacist's CO and is willing to support her in avoiding caring for patients who require this therapy. Eleanor explains there is a process that she is obliged to follow as per the College and provides the pharmacy manager with the information. The pharmacy manager suggests Eleanor provide a draft plan to her in the next week.

Activity 2:

Create a plan for mitigating risk to patients.

A draft CO action plan is developed.

**Note:**

The chart below is an example. Members may choose to format their plan according to their preference.



Chart: Colleagues assisting me with this plan

Name/Position	Contact	Date Assent Provided/Updated
Rhonda Bourque/Pharmacy Pharmacy manager	xxx-xxx-xxx	January 15 <sup>th</sup> , 2019
Elias Woodbourne/ Pharmacy XYX Pharmacy manager	YYY-YYY-YYY	January 20 <sup>th</sup> , 2019
Sharee Lawson/pharmacy technician	Would be in pharmacy	January 16 <sup>th</sup> , 2019
Meredith Lafontaine/psychological counselor	VVV-VVV-VVV	January 20 <sup>th</sup> , 2019
Jamie Pollock/MD family practice	zzz-zzz-zzz	January 24 <sup>th</sup> , 2019

Activity 3:

Make preparations for plan execution. Contact local supporting professionals (inter and intra-professional health care professionals) who are instrumental in actioning the plan. Contact psychological/spiritual counselors to ensure supports to the plan are in place in the event the plan leads to providing care that does not conform to beliefs and values (worst case and unusual scenario).

*I informed our local family practice about my CO to providing these agents and care associated with them and they agree to minimize as much as possible the need to commence the therapy on weekends as it would pose the greatest risk to patients as well as me. I have provided them with my plan and the head physician at the local family practice has agreed to support me in this plan.*

*I have discussed my situation and plan with the colleagues documented above and engaged with counselling to emotionally prepare for engaging with patients with a requirement for the treatment. There is a possibility I may be obliged to enter into initial conversations pertaining to the medication (assessing therapy) prior to referral and that there may be extenuating circumstances where I might opt to provide the service (according to my plan).*

#### Activity 4:

Documentation on member's College profile

#### **Attestation of Conscientious Objection Action Plan**

**Attestation:** Please complete the following sections.

1. My CO Action plan was last reviewed/updated on: (drop-down calendar)
2. I have discussed my CO and this plan with my supervisor/manager. (check box/multiple choice answer)
  - Yes
  - No
  - I am the supervisor/manager

#### Activity 5:

Review and adjust the plan annually and when factors change (e.g., personal beliefs and values, peer support, practice location or staffing levels)

At College membership/license renewal time in November, she reviews her plan, communicates with her peer supporters to ensure continued support, makes any adjustments she and the pharmacy manager deem necessary and then updates the plan. Finally, she edits the CO section of her member profile. She realizes that when the pharmacy manager retires later this year, there will be a need to adjust the plan.