



THIRD-PARTY CONTRACTS

A Guide for Physicians

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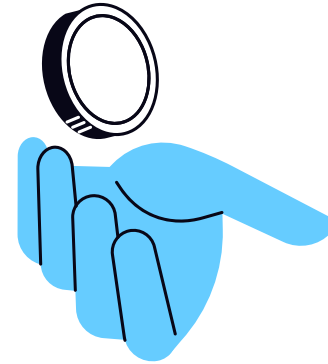


Introduction

THIRD-PARTY CONTRACTS

As a physician, you will likely encounter various contracts throughout your career, including agreements with clinics and other third parties. While these contracts may appear routine, they often contain terms that can affect your autonomy, financial interests and legal risk. Below are common clauses to pay attention to, and why they matter.

This document is provided for general educational purposes and does not constitute legal advice. It is not a substitute for consultation with a legal professional regarding specific medico-legal issues.



Indemnity Clauses

An indemnity clause outlines who will be financially responsible if a legal claim arises in connection with your work. For example, if a patient sues both you and the clinic, the contract may state that you must cover the clinic's legal costs or any damages it owes. This is known as "indemnifying" the clinic. Indemnity clauses can be unilateral (one-sided) or mutual (both parties assume responsibility for their actions).

These clauses can carry significant risk. Some are drafted so broadly that you may be liable for issues outside your control, such as administrative errors, billing mistakes or employment disputes. Watch for clauses that require you to indemnify the clinic without a corresponding obligation for the clinic to indemnify you.

Ideally, the clause should be narrowly drafted and either mutual or in favour of the physician. You should only be responsible for claims that result from your own clinical negligence, not for operational or administrative issues. A well-structured clause should make clear that each party is responsible for its own conduct and that indemnity obligations are specific and limited.

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EMRs, Patient Records and Confidentiality

Before signing an agreement with a clinic, physicians should carefully review any clauses related to Electronic Medical Records (EMRs) and patient chart ownership.

In Nova Scotia, the *Personal Health Information Act*, S.N.S. 2010, c. 41, determines who is legally responsible for patient records. This role is referred to as the “custodian,” and it may be either the physician or the clinic. Custodianship comes with legal and professional obligations, and it is important that these responsibilities are clearly set out in the agreement.

The College of Physicians and Surgeons of Nova Scotia (CPSNS) requires physicians working in group settings to have a written agreement in place to ensure the enduring right of patients to access their charts in the event the practice closes or their physician leaves.¹

Physicians who are not the custodian generally cannot take original records with them when they leave a practice and may face delays or restrictions in accessing those records if a legal or professional issue arises. The CPSNS and the Canadian Medical Protective Association (CMPA) recommend that physicians have a written agreement granting them ongoing or “enduring” access to records they created or contributed to. Before signing any agreement, confirm in writing who the custodian will be and what your access rights are, both during your time at the clinic and after you leave.

It is also common for contracts to include confidentiality clauses that require physicians to keep certain information private. These provisions should be reviewed carefully to make sure they do not conflict with your legal and professional responsibilities, such as mandatory reporting duties. They should also not prevent you from seeking advice from the CMPA or your legal counsel.

¹ See *Professional Standards Regarding the Management of Medical Records*, CPSNS Professional Standard, March 3, 2023.

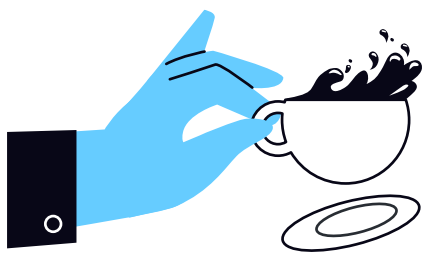


Financial Terms

Many agreements require physicians to pay fees to clinics for shared services such as reception, office space or equipment.

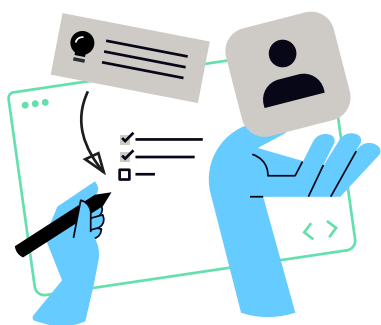
While this is common, some contracts allow these fees to increase with little notice, provide the physician with little or no input into additional charges, or fail to clearly explain what the fees cover. Be cautious of provisions that obligate you to pay for clinic expenses without clearly outlining what is included. Vague or open-ended language can lead to unexpected costs and disputes down the line.

In some instances, contracts may ask physicians to direct their MSI payments to the clinic. While a physician can choose to do this, it is not the norm; be cautious. Physicians should retain control over their MSI income and ensure they fully understand the financial implications of redirecting these payments. If you choose to direct your MSI payments to the clinic, you should insist on complete transparency regarding how fees are calculated, what deductions will be made and whether any additional charges may be imposed.



Liability Insurance

It is common for agreements to require physicians to maintain professional liability protection. However, some contracts incorrectly describe CMPA membership as a form of insurance. A CMPA membership is not insurance. The CMPA is a mutual defence organization that provides legal support to members on a discretionary basis. Because of this, contracts should avoid terms like “insurance,” “coverage” or “policy” when referring to the CMPA. The agreement should simply state that the physician will maintain membership in the CMPA.

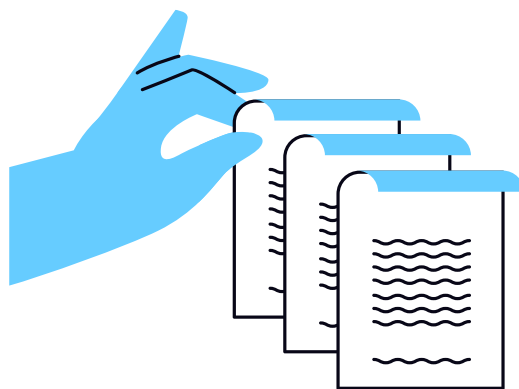


Practice Autonomy

Some third-party agreements go beyond administrative matters and attempt to control how and when you practise. You may come across clauses that mandate specific office hours, impose after-hours call coverage or limit the types of patients you can see.

These provisions can interfere with your professional judgment and may conflict with your obligations to the CPSNS. They may also be inconsistent with the terms of your offer from Nova Scotia Health (NSH), particularly where your full-time equivalent includes hours worked at multiple sites. It's important to ensure that any such requirements align with your professional responsibilities and broader contractual commitments.

You should also be aware of non-compete clauses. These may try to limit your ability to practise within a certain distance of the clinic after you leave or prevent you from continuing to care for your own patients. Such provisions run counter to the preferences of NSH, which encourages physicians who relocate to remain in the same general area and continue caring for their existing patients. If you come across a non-compete clause, it is important to seek legal advice to understand whether it is enforceable and how it might affect your ability to practise.



Multiple Contracts

Physicians are often party to more than one contract at a time, for example, a Return of Service (ROS) Agreement with the Department of Health and Wellness and a separate agreement with a clinic. It's important to understand that each agreement is legally binding and enforceable on its own terms. Physicians must ensure that their obligations under one agreement do not conflict with, or prevent them from meeting, their obligations under another. For instance, if a clinic agreement requires a certain number of service hours at the clinic, but the ROS Agreement requires work in a different community or facility, this could result in a breach of one or both contracts. Before signing any new agreement, physicians should carefully consider how it interacts with their existing obligations.

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Conclusion

Contract terms are not just administrative formalities. They have practical and legal consequences. Poorly worded or one-sided clauses can expose you to unnecessary risks, make it harder to meet your professional obligations or limit your ability to manage your own practice.

Review contracts thoroughly before signing. Ask questions if anything is unclear or seems unfair. If needed, seek legal advice. The Legal Information Society of Nova Scotia offers a lawyer referral service, which can be reached at 1-800-665-9779 or 902-455-3135, or online at www.legalinfo.org.