

June 1993

This Bulletin is forwarded to every medical practitioner in the province. Decisions of the College on matters of standards, amendments to Regulations, By-Laws, guidelines, etc., are published in Bulletins. The College therefore assumes that a practitioner should be aware of these matters.

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The following matters were considered by Council at its meeting on June 12, 1993.

Dr. Khalid Jamil Hasan

This physician was charged with improperly obtaining medical records on a patient he was no longer caring for. A Board of Inquiry found that in response to a civil suit, Dr. Hasan had obtained mental health records for a purpose unrelated to the treatment of a patient at the time when the patient was not in his care, and thereby engaged in a conduct irrelevant to the practice of medicine that having regard to all the circumstances would be reasonably regarded by Council as disgraceful, dishonourable, or unprofessional.

The Board of Inquiry found the physician guilty of the above charge and made a recommendation on penalty.

At a hearing to consider the penalty, Council heard evidence in support of Dr. Hasan and ordered the following:

i. A suspension of his license to practise medicine for a period of 4 months.

ii. That he submit to an independent psychiatric assessment by an examiner appointed by the College.

iii. That the completion of such an assessment be a condition of return to practice.

Dr. X

This physician was charged with having sexual intercourse with a patient in his care and with threatening to withhold medical services unless the patient submitted to sexual intercourse.

A Board of Inquiry found that the intimate relationship between the physician and the complainant had existed for some time before the complainant became the physician's patient. The doctor/patient relationship was limited to allergy shots and minor complaints.

The Board of Inquiry found the physician not guilty of professional misconduct. They felt that there was

no evidence that the physician had used or abused his professional status as the occasion for initiating or maintaining an intimate relationship. Nevertheless, the Board wished to emphasize the possibility for professional misconduct even if the intimate relationship preexists the medical relationship. Such a relationship may undermine any objectivity with which a physician provides medical care. However, in this case, it was felt that the limited nature and scope of the medical relationship limited the complainant's vulnerability to an abuse of power on the part of the physician. The Board felt that the physician's entering even a limited doctor/patient relationship was imprudent and lacking professional judgment, but not such as to warrant a finding of professional misconduct.

Dr. Y

This physician plead guilty before a Board of Inquiry to a charge of improper prescribing.

The physician admitted that he had written a prescription for a patient known by him to be an addict when the patient approached him while the physician was in his car. This was done without any examination or assessment of the patient's medical condition. Further, the prescription was issued in an improper form, e.g., he issued a prescription for Mandrax or Dilaudid.

In response to a guilty plea, and on the recommendation of the Board of Inquiry, the Council ordered that the physician receive a reprimand not recorded on the Register. As a consequence there is no publication of his name.

Dr. Lise Lacasse

This physician had plead guilty to a charge of criminal fraud relating to improper billing of Medicare. She had been sentenced to 30 days in jail.

The physician further plead guilty to a charge of professional misconduct before the College. As a consequence of the guilty plea, the Council ordered that her license to practise medicine be suspended for a period of six months, but such sentence to be suspended until and if there is a further finding of professional misconduct within the next five years.

Complaints and Registration Committee:

The Complaints and Registration Committee reported the following matters:

i. There was a complaint regarding improper sexual conduct by a physician. The Council approved the Committee's recommendation to appoint a Board of Inquiry.

ii. There was a complaint from the sister of a suicide victim that a physician had not recognized the risks of prescribing certain medication to her brother. The Committee concluded that the resulting events were unpredictable, that the patient had refused psychiatric help, and felt that no further action was necessary.

iii. The mother of a mentally-handicapped child complained that a physician had improperly terminated care and refused to see the child when the latter became ill. Subsequently the child was admitted to hospital.

The Regulations of the College impose the obligation on physicians to continue to provide necessary services until a patient has a reasonable opportunity to arrange for the services of another.

The Committee felt that the mother did not have adequate opportunity to make alternate arrangements. Nevertheless, it was clear that the physician did not know of this obligation. Physicians are reminded that in view of the difficulties many patients may have at easily obtaining access to another physician, that their former physician continues to have some level of obligation to provide care, especially in urgent situations.

iv. A complaint regarding the management of a pregnancy by a physician. The pregnancy resulted in a stillbirth. There was also questions regarding the conduct of a physician during the delivery of the baby.

Investigation with the nurses who were in attendance and explanation by the physician led to the conclusion that the conduct alleged had not occurred. Further, there was no evidence of deficiencies in the medical management.

v. There was a complaint regarding the assessment done by a physician regarding a disability. The Committee expressed concern regarding the quality of the assessment. The physician seemed to have assumed earlier studies were negative when in fact they were not. There was some question whether the physician adequately assessed the opinions of other consultants. Nevertheless, it was not clear that the opinion reached was completely at odds with the facts. The Committee consequently recommended no further action.

vi. There was a complaint regarding the examination of a 10 year old girl by an Emergency Room physician. The girl had refused to allow the physician to examine her and the physician felt that the mother had not assisted in the process. The physician later forced some form of examination on the child. The Complaints Committee felt that the physician should not have to allow the examination to deteriorate. While examination refusals in small children may be overruled, when a child becomes older, the situation has to be handled with some delicacy. Nevertheless, the Committee felt no further action was necessary.

vii. There was an allegation against a physician regarding an improper examination with evident sexual intent. The Council accepted the Committee's recommendation and appointed a Board of Inquiry to consider the matter.

viii. There was a complaint that a physician had not responded to a patient stating that another physician had examined her in an improper way. The physician does not specifically recall the conversation and is certain that the patient did not press the issue.

Physicians are reminded of their ethical obligation to report conduct which may be unprofessional. Nevertheless, the Committee concluded that at the time of these events, such an obligation was not clearly understood by all physicians. While the Committee felt that no further action need be taken at this time, it was felt important for physicians to be reminded of their obligation in this matter.

ix. There had been an allegation by a patient that lack of a proper examination resulted in a delayed diagnosis of a carcinoma. The Council had previously approved a Board of Inquiry to investigate the adequacy of the care. Subsequently, the patient had died. It was accepted by Council, that details of the complaint could no longer be had and consequently the Order to appoint a Board of Inquiry was repealed. The matter was reported to the Fitness to Practise Committee.

x. A patient complained that a physician had released confidential information regarding her during a telephone conversation in front of another patient. The episode appeared inadvertent and no action was taken. Nevertheless, physicians are cautioned to be extremely careful in any conversation that occurs in front of a patient. A name may be mentioned by accident, and, given the size of some communities, it may well be that a name mentioned will be known to a patient who overhears.

Fitness to Practise Committee:

The Fitness to Practise Committee have approved the return to work plans of a physician. The physician had previous difficulties with drug dependency. Efforts to relocate the physician within the province had been frustrated by the physician manpower controls. Consequently, he was allowed to return to practise in a limited fashion. Another physician had refused to submit to an office audit. As a consequence the Committee recommended that his licence to practise be suspended. Council will consider the matter at a later meeting.

By-Laws Committee:

Council approved the redrafting of the Licensing By-Law of the College. There were no substantive changes. They clarify that the requirement for two years of postgraduate training would apply to graduates of 1993 or later. The basic requirement for licensure will be certification either by the Royal College, by the College of Family Practice, or by the Corporation des médecins du Québec. Those not so certified will require the LMCC plus evidence of suitable training.

Committee on Sexual Exploitation:

The Committee addressing this issue should report in the fall. At that time feedback from members will be solicited. In the meantime, following is the result of the survey of physicians on the subject.

1. Do you think the issue of physician sexual contact with patient is a serious one in New Brunswick?

Yes 286 No 186 Don't Know 45  
Other 17

2. Are you familiar with the New Brunswick College of Physicians and Surgeons' current policies and procedures regarding sexual contact between physicians and patients?

Yes 285 No 235 Don't Know 6 Other 8

3 Do you believe specific guidelines from the College on what is considered appropriate or inappropriate contact with patients would be beneficial?

Yes 454 No 64 Don't Know 6 Other 10

4. Do you believe both physicians and patients should have the option of a third party present during an examination?

Always 360 Sometimes 162 Never 6  
Don't Know 1 Other 5

5. Are there any circumstances in which you feel sexual contact with a patient is permissible?

Always 0 Sometimes 76 Never 447  
Don't Know 6 Other 5

6. Are there any circumstances in which you feel sexual contact with a former patient is permissible?

Always 15 Sometimes 386 Never 116  
Don't Know 11 Other 6

7. Do you believe it should be mandatory for a physician to report to the College if he or she has sound reason to believe another physician is or has been sexually abusing a patient?

Always 328 Sometimes 129  
Never 42 Don't Know 16 Other 19

8. Do you believe discipline hearings of the College should be open to the public?

Yes 42 No 398 Sometimes 86  
Don't Know 3 Other 5

9. Do you believe that doctors convicted by the College under the present system have been fairly treated?

Yes 338 No 47 Don't Know 122 Other 27

Office Relocation:

The office of the College has relocated. The new address and phone numbers are as follows:

1 Hampton Road, PO Box 628  
Rothesay, NB EOG 2W0  
Tel: (506)849-5050  
Fax: (506)849-5069  
Toll free: 1-800-667-4641

Elections:

Elections to Council took place on 14 June 1993.

- Elected by acclamation from District 1 was Dr. Pamela Walsh.
- Elected from District 2 was Dr. Christine Davies.
- Elected from District 3 was Dr. Beatriz Sainz.
- A new public Councillor has also been appointed by the Lieutenant-Governor. She is Mrs. Suzanne Toole of Saint John.

Legislative Changes:

Amendments to the Medical Act have been approved which include the legislation enabling the College's participation in the Atlantic Provinces Medical Peer Review. Other amendments will allow non-physicians to own non-voting shares or be directors of Professional Corporations.

Annual Announcement:

All physicians should have received a copy of this by now. Some have turned up with printing errors. These can be returned to the office for replacement. In addition, physicians may purchase additional copies at a cost of \$10. from the office.

With this mailing is an insert with changes as of June 15th.

HIV Testing

The Canadian Red Cross Society has asked the College to warn against using their blood donor service as an informal HIV test. Testing for HIV infection should be done by the patient's own physician through the Provincial Laboratory.

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