

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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ANNUAL FEES

By now, all licensed physicians should have received an invoice for annual fees. Physicians are reminded that the absolute deadline for receipt of such dues is 1 January 1997. Failure to forward fees by that time may result in suspension of licensure without further notice.

Cheques post-dated to 2 January 1997 are acceptable. Furthermore, any concern regarding the deadline can be completely avoided by use of the preauthorized payment plan, which, in addition, results in a reduction of fees by \$20.

Based on past experience, physicians who have their fees paid by a third party, such as a hospital or employer, should take extra steps to ensure that payment is received on time.

At its meeting on November 29, 1996, Council considered the following matters:

COMPLAINTS:

There was a complaint from an Emergency Room physician that a consultant had refused a request to see a patient, or make arrangements for a the patient to be seen later. In reviewing the matter, the Committee felt that, in response to such a request, the "on-call" consultant had a clear obligation to see the patient at that time, arrange to see the patient later if appropriate, or satisfy the referring physician as to the reason that the patient may not be seen. If the consultant is reluctant to provide that service, then he should not be providing such coverage to the Emergency Department.

A patient with dyspeurania had a procedure done in the hopes of relieving the problem. Nevertheless, difficulties persisted. There were consultations, and further procedures where necessary, but without complete success. The patient complained that the initial procedure was done in the expectation for complete resolution. In reviewing the matter, and considering the complexity of the problem, the Committee did not feel that the physician had acted inappropriately. Clearly, the patient's expectations were greater than what they should have been. The Committee could not determine whether better communication would have resolved this.

There was a complaint that a resident physician had prematurely discharged a patient after surgery. In reviewing the matter, it was clear that the resident had acted appropriately, and under the authority of the attending surgeon. The Committee concluded that the care provided was appropriate. While better communication would seem to have prevented such a complaint, the Committee noted that the patient had voiced no objections at the time of discharge.

A patient complained regarding the care she received during an extremely complicated pregnancy. During the pregnancy, she had suffered an early rupture of membranes, several episodes of bleeding, and required gallbladder surgery. She was seen by several consultants. The Committee noted that, based on these many different opinions, the patient had been receiving a variety of messages regarding these difficulties. Nevertheless, based on the facts in front of the original attending physician, the care provided was appropriate. Communication difficulties seem to have been aggravated by the number of physicians involved.

A patient, who had had earlier breast surgery, complained that a physician had failed to properly recognize the development of breast cancer. In response, the physician noted that the patient's symptoms, along with several negative investigations, had not pointed to the difficulties which had eventually developed. In fact, it was clear to the Committee that the eventual diagnosis was reasonably unexpected. The Committee felt that the care provided was appropriate.

There was a complaint against a psychiatrist that a patient had been improperly admitted for treatment. In reviewing the matter, the Committee could find no fault with the care provided.

There was a complaint against an obstetrician regarding the management of a pregnancy which had resulted in a stillbirth. In reviewing the matter, the Committee could not find any fault with the care provided. The cause of the stillbirth was clearly unexpected and unavoidable. The Committee noted that the complaint had arisen five years after the events in question. The Committee further noted that the patient was clearly having difficulty coming to terms with this loss.

There was a complaint that a physician had inappropriately arranged for a private adoption. The physician had received a letter from a couple out of province requesting assistance in finding a child. Somewhat later, a young pregnant patient asked the physician for assistance in finding a couple to adopt her baby. The physician put the parties in touch with each other. The physician received no compensation. In reviewing the matter, the Committee noted that the provisions of the *Family Services Act* can be read quite strictly. Besides precluding any "payment or reward", the Act also appears to prevent virtually all assistance that a physician might offer to patients who make

requests such as this one. Thus, to avoid complaints, or even potential charges under the *Family Services Act*, physicians are strongly cautioned to seek advice before offering even minor assistance for a relinquishing mother.

A patient saw a physician several times after an automobile accident. The physician completed forms allowing the patient to make various insurance claims. The physician advised that he felt the patient should now have recovered from the injuries and he intended to provide this information to the insurance company. The patient claimed that the care provided was inadequate. In reviewing the matter, the Committee could find no fault with the care provided.

A patient complained regarding several aspects of the care provided by a family physician. She complained that the physician had improperly left a message regarding a test result on her voice mail, after which the physician was unavailable to provide more further information. The patient had further difficulties arranging a consultation and had difficulties obtaining the results of the tests performed by the consultant from the family physician. On reviewing the matter, the Committee again noted the role that communication plays in many of the complaints that have arisen. Physicians are reminded of the difficulties which can occur from using voice mail for even relatively minor information. It would seem be that such a procedure be used only with the prior agreement of the patient, and, so far as possible, only if the physician is relatively available for follow-up discussions. It is simply a fact that with anything other than the most benign information, patients frequently have questions. Thus, leaving a message at the beginning of a weekend can create more difficulties than it solves. The Committee also felt that the physician had used the best efforts possible to arrange the referral. Furthermore, the Committee agreed with the physician that it was the consultant's responsibility to communicate the results of any tests he performed directly to the patient.

A complainant had taken her mother to a physician for an examination. She complained that the physician had not appropriately draped her mother during the examination. In response, the physician stated that the patient had become increasingly agitated and confused. The physician felt that she had provided the best examination possible under the circumstances. The Committee noted that physicians, in order to provide a complete clinical assessment, may sometimes compromise on privacy issues. The Committee felt that the physician had acted appropriately under the circumstances. The Committee noted the embarrassment which the family member evidently suffered as the result of the examination. Avoiding such may be the best physicians can do under the circumstances.

There was a complaint from a parent that an Emergency Room physician had failed to appropriately treat her child. The child was subsequently treated by another physician. In reviewing the matter, the Committee could find no fault with the care provided.

A patient, several years after a tubal ligation, had discovered she was pregnant. She attended her family physician, requesting referral to an obstetrician/gynaecologist, as had been necessary with her earlier pregnancies. The physician inquired as to whether the patient was considering an abortion. The patient stated that there were other concerns she was aware of, such as an ectopic pregnancy, but a therapeutic abortion was a possibility. At that point, the physician said he would not arrange such a referral and refused to have any other discussions with the patient, eventually walking out on her. In response, the physician stated that he "presumed" that a referral would lead to an abortion, and his personal morality required him to take no such action. On reviewing the matter, the Committee felt there were several shortcomings in the care provided by the physician. While physicians are entitled and obligated to advise a patient of their moral or religious objections to particular treatments, the Committee felt it was improper to do this solely on the basis of his "presumption". There were other reasons for the patient to require a referral. Physicians are obligated to make such a referral in the patient's best interest. Furthermore, it is wrong for them to obstruct such a process as was done in this case. At the very least, given the stress that the patient was under, the physician should have offered such counselling and advice as the situation indicated. After reaching these conclusions, the Committee did not feel, that given all the circumstances, further benefit would flow from formal action.

There was a complaint that a physician had improperly reported a family to child protection authorities. In reviewing the matter, it was evident that the physician's concern regarding the family had arisen out of a single visit to the office where the physician was acting as a locum. Being uncertain whether the matter was reportable, the physician had a lengthy discussion with a child protection worker, without providing identifying information. At the end of this discussion, which may have included information which was not directly relevant to the issues, the worker pressed the physician to provide identifying information. As a consequence, the family was investigated, but the investigation was quickly concluded. Nevertheless, the physician was concerned that the identity of the reporting individual would be released to the family. On reviewing the matter, the Committee noted several unfortunate aspects of the case. First of all, physicians are legally obligated to report such suspicions. Generally, this would only require providing such information as is necessary for the relevant authorities to commence an investigation. However, being uncertain of the magnitude of the problem, the physician had, in fact, provided considerably more information than might otherwise have been provided. This was clearly one source of difficulty. The

Committee also was troubled that the identifying physician was so easily available to the family. While departmental policy evidently precludes such, it may have been that the circumstances would have allowed the family to deduce this in any case. In the end, the Committee noted that the physician can be subject to scrutiny for both reporting and failing to report. As had been the advice in earlier cases, physicians are encouraged to seek such advice as may be possible, regarding these decisions.

E-MAIL

The 1997 Annual Announcement will include such E-Mail addresses as physicians wish to have included. Physicians who wish to have these listed should advise the College office or post them to CPSNB@ra.isisnet.com. Physicians may also note that the College has a web site "under construction" at www.cpsnb.org.

DESIGNATION IN THE ANNUAL ANNOUNCEMENT

In order to provide a more useful Annual Announcement, the 1997 edition will include information on practitioners whose area of practice is other than that under which they were formally listed. This could include physicians who are not formally on the Specialist Register or those whose principal practice is different from their formal specialist designation, (such as a subspecialty of medicine or surgery).

While this will not change licensing status, physicians who wish to be identified as having a "principal area of practice", should advise the College. Such recognized "principal areas of practice" will generally be confined to the usual specialty designations.

OPTING OUT

The opinion of members is requested on a matter arising from a complaint discussed in the last Bulletin. In that case, patients were offered an earlier appointment if they agreed to be seen on an "opted-out" basis. As members are aware, in certain circumstances physicians are allowed to opt out of Medicare and bill patients directly for services which would otherwise be covered. Without limiting the right of physicians to take advantage of this provision, members of Council remain concerned about two aspects. One concerns the potential for treating patients differently based on their ability, or willingness to pay. The second concerns the potential adverse effects, such as delay in treatment, on those patients who are unable to pay. To that end, Council would like feedback from members as to whether, given these provisions, physicians should be prohibited from offering a significant advantage, assessment or treatment, in exchange for direct payment.