

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.

Officers and Councillors 1996-1997

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At its meeting on April 11, 1997, Council considered the following matters:

COMPLAINTS:

The Complaints Committee considered four complaints against a physician. One was for sexual impropriety, and the other three were for irregular prescribing. The matter was referred to a Board of Inquiry.

The mother of a victim of breast cancer complained against several physicians regarding her daughter's care. Based on expert opinion, no fault could be found with the medical care provided. The Committee did note the value of family support in such difficult situations. The physicians acknowledged that, for many complex reasons, this may not have been what it could have been in this situation. Even when the clinical course of the patient allows nothing more to be done, the burden on the family can sometimes be eased.

The family of an elderly patient complained that his local physicians had not treated the patient appropriately, resulting in

a delay in diagnosis. Furthermore, they alleged that a request for a referral to a regional centre had been refused. Upon reviewing the matter, the Committee could find no fault with the care provided. It was noted that even on referral to the tertiary centre, it was several weeks before the eventual diagnosis, cancer of the pancreas, was revealed. Insofar as the refusal to refer the patient earlier, the Committee realizes that physicians can be placed in difficult positions. While some preliminary investigation will obviously be of value, the patient's wishes must be respected. What was unclear here was whether this was the wish of the patient, or the family.

A patient complained regarding complications which developed following a gynaecological procedure. She alleged the surgeon failed to respond appropriately to her concerns, and failed to recognise the cause of her continuing pain. In response, the

surgeon asserted that he had responded appropriately to the patient's concerns, but had not recognised the particular complication for what it was. Based on the facts before them, the Committee could find no fault with the care provided.

There was a complaint against a family physician alleging that a diagnosis of lung cancer was inappropriately delayed. The patient had been seen by the family physician, as well as several consultants, for long-standing heart disease. A series of investigations were carried out, but it was only later in the course that the eventual diagnosis was uncovered. Based on the investigations done, and the appropriate referrals, the Committee could find no fault with the care provided.

A mother complained that her infant daughter was inappropriately denied care. The child had been originally referred to a consultant, who saw the child and referred the child

further out of province. When the condition acutely recurred, the mother attempted to see the consultant again. The receptionist refused to allow appointments, suggesting that the child be taken to the Emergency Department. The mother made further attempts to press the matter. Later, the physician called the mother, stating that he would not provide further service to her or her child because of the conversation the mother had had with the receptionist. The physician felt that his actions were appropriate. On reviewing the matter, the Committee noted that the mother had reasonable expectations that the child would be seen again by the same physician. Thus, if the physician did not feel that he could continue to provide service, the appropriate response would have been a direct referral to another consultant. It was inappropriate to deny treatment, under these circumstances, without making alternate arrangements.

A patient with back pain attended a small hospital. She waited some period of time, but was not seen by a physician. However, on leaving, she noted that the physician was resting in the lounge. She feels that the physician was inappropriately inattentive. In response, the physician stated that he was simply taking a break after a long period of service. In reviewing the matter, the Committee can find no fault with the care provided.

There was a complaint that a physician had failed to diagnose a fractured facial bone. The patient had been advised to return home after the radiologist had seen the x-ray. However, the next day, the patient went to the regional centre and was treated. Upon reviewing

the matter, the Committee could find no fault with the care provided. The problem could be difficult to diagnose. Furthermore, there was even a dispute regarding the interpretation of the x-ray. Finally, a few days delay in treatment would not have been of significance.

A complaint arose regarding a comment made by a psychiatrist to the wife of one of his patients. The latter had been asked to attend to discuss the care provided to her husband. She felt the psychiatrist had made some inappropriate comments regarding the couple's personal relationship. The patient himself did not feel that the comments were improper. In reviewing the matter, the Committee could find no fault with the care provided. It is noted that certain comments made by a physician with whom the individual was unfamiliar could create some difficulties. Nevertheless, the physician's first responsibility is to the patient.

An ultrasound report on a pregnant patient suggested a possible abnormality. The family physician was unavailable, so the radiologist communicated this directly to the consultant, who had not yet seen the patient. He subsequently contacted the family physician, who provided a report to the patient. However, by this time, the information which was passed on was not what it should have been, implying a more severe abnormality than was actually present. Upon reviewing the matter, the Committee noted that such flow of communication, all verbal, could result in certain inaccuracies. Clearly, efforts to improve communication in this context would be of value.

A patient had undergone a tubal ligation some years earlier. She now sought a reversal, claiming that she had not been told that the original procedure was intended to be permanent. The surgeon asserted that she had been so told, and the Committee found no evidence to the contrary. Given the risks of such matters arising, a better documentation of exactly what the patient is told is obviously of value.

A physician had written a letter of reference regarding a medical student. Unfortunately, various inappropriate comments had been included in the letter. The physician, and his secretary, asserted that these comments were introduced, in jest, by the latter. The Committee accepted this version. Physicians are obviously cautioned that all documentation to which they affix their name should be scrutinized appropriately.

A child had suffered a minor injury and was taken to an after-hours clinic approximately 90 minutes before its closing time. The mother was advised that no new patients would be seen. A dispute erupted with the receptionist. The mother alleged that she was inappropriately denied care. In response, the physician stated that the clinic had a policy of determining how many patients would be seen. In any case, the purported injury, a small burn, would not have been treated there in the first place. In reviewing the matter, the Committee felt it was not unreasonable for the mother to expect that the child would be seen, given the operating hours of the clinic, and, moreover, to expect that such an injury could be treated there. While this does not mean that the physician has an

absolute obligation to see the patient, it does suggest that the physician should have made some effort at accommodating the matter. The child could have been assessed by some means and, if proper treatment was not available at the clinic, then the child could have been referred elsewhere.

A patient alleged that a physician had failed to make a timely diagnosis of breast cancer. The physician asserted that the care provided was appropriate. In reviewing the matter, the Committee noted that this was the second case in recent months of breast cancer developing at the site of previous surgery. This evidently created some difficulty in responding to the clinical situation, as the initial assumption would be that the lesion was, in fact, scar tissue. The rapid progress of this disease in young patients will always create difficulty. Physicians can only maintain an index of suspicion.

The Committee referred two other matters to the Review Committee (formerly Fitness to Practise). One concerned improper prescribing and the other an unexplained delay in providing a report.

REVIEW COMMITTEE

This committee, which was formerly the Fitness to Practise Committee, considered several matters.

This committee approved an enhancement program for a physician which was arranged by the Continuing Medical Education Division at Dalhousie University.

The Committee reviewed an assessment of competence which a physician had attended out of

province. As a result of the assessment, the physician agreed to retire.

The Committee considered an appeal from an Order of Council dismissing a complaint. The complainant alleged that a physician had inappropriately denied him a refill for prescription when covering for his own doctor. The Committee confirmed the Order of Council on this matter.

THE ANNUAL ANNOUNCEMENT

With this Newsletter, physicians in New Brunswick received 2 copies of the Annual Announcement. They are encouraged to distribute the second copy where it will be of most value. Physicians are also encouraged to check the accuracy of their entry and forward any changes, or additional information, on the enclosed card.

THE CODE OF ETHICS

As members are aware, the Canadian Medical Association recently revised its Code of Ethics. Under regulations of the College, this Code is binding in New Brunswick. Nevertheless, certain of the new provisions could potentially be confusing. To that end, additional commentaries, some of which are from the CMA and some of which were added by Council, are included. Finally, an improved French translation was prepared.

The Code of Ethics, with commentaries, has been included in the Annual Announcement, along with selected other regulations.

E-MAIL AND WEBSITE

After several changes, the E-Mail address of the College is now cpsnb@netcity.ca. As before, the web site of the College is at www.cpsnb.org. Comments on the latter are encouraged.

For interest, physicians may also wish to check the following sites from other licensing authorities:

Alberta
www.cpsa.ab.ca
 Manitoba
www.umanitoba.ca/colleges/cps
 New York
www.health.state.ny.us
 Texas:
www.tsbme.capnet.state.tx.us
 Britain
www.healthworks.co.uk/hw/orgs/GMC.html
 New Zealand
www.onlineweb.co.nz/practice.html
 South Africa
samdc.org.za

THE MEDICAL ACT

On February 28th, 1997, the amendments to the *Medical Act* were passed. These amendments cover issues which have been discussed with members earlier. An additional change, made at the request of several members, was the change of name of the Fitness to Practise Committee to the Review Committee as this was felt a more accurate terminology.

Members should also be aware that the College will be making further amendments at the next opportunity. These are at the request of the Department of Health and would include requirements that certain College regulations be approved by the Minister of Health. This would particularly concern the regulations respecting the qualifications for registration and licensure.

EXAMINATION OF THE LUNGS

For the interest of members, the following excerpt is from the newsletter of the College of Physicians and Surgeons of British Columbia.

The Committee has been startled by the number of patients who complain about a properly performed lung examination. Presumably, these patients have never had anything more than a cursory examination with the stethoscope over the anterior sternum through the neck of a blouse or the lung bases examined with the shirt pulled up. Such patients find it unusual or even suspicious when a doctor asks for the clothing to be removed to perform a chest examination. One woman remarked that her previous doctor had always examined her chest through her clothing and that since the vet was able to examine her dog through its fur, she felt that the doctor who asked her to undress for an examination must have had a perverse intent.

The patient may be reassured by a preliminary explanation such as "I need to do a full examination of your lungs" or "I need to examine the whole lung area." A female patient must always be given a

gown or a drape, and allowed to disrobe in privacy.

It is convenient and reassuring for the female patient for the doctor to begin the examination posteriorly, with the patient sitting. The anterior chest can be examined with the patient lying down. The supraclavicular fossae, the axillae and interspaces are auscultated and compared side to side. Breast tissue can be gently pushed aside as necessary. The technique of one doctor who always placed the stethoscope on the areola to listen to the anterior chest was found to be bizarre and unacceptable by his young female patients and also by the Committee.

OPTING OUT

In the last Bulletin, physicians were asked for their comments on the practice of offering patients early appointments in exchange for direct payment, outside of Medicare. The College received several responses, most of which opposed the practice. After reviewing these responses, members of Council came to a similar conclusion. However, Council wishes to seek further opinions from members regarding this issue. To that end, they took Notice of Motion of the following proposed addition to the rule on Professional Misconduct:

Offering, or providing, a significant advantage, in assessment or treatment, to a patient, based on the patient's ability, or willingness, to pay the physician directly for such an advantage.

Prior to finalizing this, Council again wishes members to provide such comments that they feel appropriate.

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