

December 1995

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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Invoices for annual fees have recently been sent out. Physicians should note that College regulations have been amended. Any physician who has not paid the fees by the beginning of January is subject to immediate suspension. There will be a further fee of \$100 required for reinstatement. In addition, physicians should note that Medicare New Brunswick cannot reactivate a physician's practitioner number until license reinstatement. Payment of fees on time will avoid any such difficulty.

Because of Christmas holidays, mail service will be limited at that time. Thus, payment should be forwarded without delay. Post-dated cheques are acceptable. In addition, the Preauthorized Payment Plan is available at a reduced fee of \$550.

Physicians who do not intend to renew their license should advise the College directly.

At its meeting on 24 November 1995, Council considered the following matters:

COMPLAINTS COMMITTEE:

There was a complaint regarding the charges a patient had to pay a physician for an allergy extract. Upon reviewing the matter, the Committee determined that the charge was not excessive in relation to the cost to the physician. Physicians are reminded that the Code of Ethics states that physicians cannot have a "profit motive" in the provision of services. Guidelines relative to these issues are in the process of development.

There was a complaint regarding an assessment done by a physician who worked for an institutional employer. Subsequent to this assessment, the patient had attended several other consultants who may have come to a different conclusion regarding the patient's condition. Upon reviewing the matter, the Committee concluded that there can be variations of opinion regarding issues such as employability. As long as the opinion reached is on the basis of an appropriate history, physical and investigation, no fault can be found on that basis alone.

There was a complaint from a hospital employee that a physician had refused to deal with her on a professional basis due to some personal difficulties. It was alleged that this refusal could compromise patient care. The physician responded that he had been following advice from his lawyer. After further discussion, the physician acknowledged that his first responsibility must always be to the patient. He also acknowledged that where there is a risk that other factors might interfere with the discharge of that responsibility, the physician must take necessary steps to overcome these factors in the patient's best interest. If the physician is unable to do so and there is a potential risk to the patient, the patient's care must be transferred to another physician. On the basis of that acknowledgement, the Committee felt no further action was warranted on this matter.

There was a complaint from the widow of a patient regarding the treatment provided to her husband who had a terminal disease. The treatments allegedly involved very unorthodox approaches. The Complaints Committee determined that this complaint should be referred to the Fitness to Practise Committee.

There was a complaint regarding a psychiatrist, who, it was alleged, improperly provided confidential information regarding a patient to another party. In response, the physician stated that the patient had been non-compliant with medication and posed a risk to other tenants of a senior citizens complex where she resided. In conclusion, he felt a moral and legal obligation to provide some warning regarding the potential to cause harm through misuse of a stove and such. The Committee found this to be a difficult issue. As members are aware, there are several situations where a physician's duty to maintain confidentiality is overruled by other interests. Sometimes these are laid down in statute; sometimes they have been imposed by the Courts. To that end, the Committee did not feel that further action could flow on this matter. The ethical question will always be a difficult one and physicians are encouraged to seek such advice as possible should they be confronted with such a situation.

A patient alleged that an orthopaedic procedure was done against his wishes and without any benefit. In response, the physician provided evidence that extensive consultation had occurred during which it was clear to all involved that the patient had quite insisted on the approach taken. External factors had evidently contributed to the patient's dissatisfaction.

There was a complaint that a physician had failed to make a referral at the request of a mother of a child with frequent ear infections. The mother later obtained a referral through another physician. The original physician evidently took offence with this. In response, the physician stated he felt that the problem was resolving and that no referral was necessary. Physicians are reminded that the Code of Ethics obligates physicians to arrange for referrals at the request of a patient. As a consequence, physicians should not take offence when a patient asserts these rights. If a physician disagrees or feels a referral is unwarranted, it is certainly appropriate to discuss this. The medical facts which cause a physician to reach this conclusion can also be transmitted to the consultant and clearly will be of value in the ultimate assessment.

There was a complaint regarding a telephone conversation between a physician and the daughter of an elderly patient who had suffered a seizure. The Committee found it impossible to determine exactly what was said. Situations such as this are clearly difficult and sometimes, despite all efforts, physicians may be unable to avoid problems arising.

There was a complaint that a physician in an Emergency Department had failed to notice a Medic Alert bracelet on an elderly patient who had suffered a stroke. The patient subsequently died and there was a concern that the provision of medication notwithstanding the Medic Alert warning may have caused the patient's demise. Upon reviewing the matter, it was clear that the error had no impact on the ultimate situation. Nevertheless, physicians are expected to do a complete assessment of a patient, appropriate to the circumstances. Notwithstanding that this patient was acutely ill, it would be expected that such a bracelet would have been

noticed by physicians, or other individuals. While in this case, the notice of such a bracelet would not have changed treatment or outcome, in other situations it might.

There was a complaint regarding the Emergency Room assessment of a child who suffered an arm fracture. Because of the appearance of the x-ray, the Emergency physician became concerned that there was previous, undiagnosed trauma. Other x-rays were ordered. During this time, the parents became concerned that the fracture was not being treated. Their expressions of impatience caused further suspicions, although no evidence of abuse was found. Definitive treatment was in fact delayed, not because of the further investigation, but because of extraneous matters such as scheduling difficulties in the Operating Room. The tension which developed in this situation might have been avoided with some explanation. While improved communication might have avoided some of the difficulties, it may be that these situations are going to create unpleasantness no matter what. In any case, there was no fault found with the care provided.

FITNESS TO PRACTISE COMMITTEE

A physician had been ordered for an assessment out of province of clinical skills. The assessment had suggested a variety of remedial and enhancement measures. The Registrar was instructed to pursue this with the appropriate resources.

There was an appeal from an order of Council dismissing a complaint which concerned the conduct of a physician during an office visit. The physician had formally apologized to the patient. The Committee felt this was sufficient and ordered that the appeal be dismissed.

The Committee had ordered a review of the use of certain procedures by two physicians. In response to the report prepared by a consultant from out of province, the Committee recommended the matter proceed to a Board of Inquiry. Based on this information, and considering the public interest, Council imposed license restrictions regarding these procedures and ordered an immediate Board of Inquiry.

LOCUM LICENSES

Council has become aware that residents were being employed as Locum physicians, without the appropriate licensure. Although the residents were supervised, they were acknowledged to be providing vacation relief and were being compensated above and beyond that which they would be as residents. Physicians are reminded that the Medical Education Register provides a limited registration for a very specific purpose. Furthermore, the Medical Act precludes the compensation of unlicensed individuals for the provision of medical care. The degree of supervision is irrelevant in this context. Furthermore, such situations may create significant liability problems later.

ANNUAL ANNOUNCEMENTS

The 1996 Annual Announcement will be available in a few months. This year, each licensed physician will receive two free copies, with additional copies available for purchase. Physicians have advised that having a personal copy as well as one for office staff, and the like, would be of value.