

December 1997

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

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At its meeting on November 28th, 1997, Council considered the following matters:

Annual Fees:

Invoices for physicians who pay their fees by cheque have now been sent. Physicians who have not yet received one should contact the College office immediately.

Physicians are reminded that such fees must be received at the College office by January 2nd. Suspension of licensure will occur otherwise.

Physicians who pay their fees by preauthorized payment will be sent receipts in January. Those who have changed their banking arrangements should contact the College office.

DR. X

As a result of complaints to the College, a physician pled guilty to three counts of professional misconduct involving the misuse of the authority to prescribe. A summary of the errors which were acknowledged follows:

i. The issue of five similar prescriptions to a single patient on a single visit in order that the patient could obtain a large supply of benzodiazepines as she was leaving the province and would lose her coverage for prescriptions.

ii. The inappropriate prescribing of Ritalin and Talwin in combination. This combination of drugs is frequently abused or trafficked.

iii. Inappropriate prescribing of benzodiazepines and codeine-containing compounds, including:

- ▶ excessive prescribing of short-acting benzodiazepines, specifically triazolam and oxazepam;
- ▶ prescribing of triazolam and oxazepam concomitantly;
- ▶ incidents of excessive daily consumption which should have suggested the possibility of trafficking;
- ▶ inappropriate duration of prescriptions and inappropriate number of refills;
- ▶ excessive prescribing of FiorinalC;
- ▶ inappropriate concomittant prescribing of two codeine-containing compounds;
- ▶ excessive daily dosages of codeine, such as should have suggested the likelihood of trafficking.

As the result of an agreement with the College, the physician pled guilty to three charges regarding the above

described activity. A reprimand was imposed. He relinquished certain narcotic prescribing privileges, and agreed to pay costs to the College in the amount of \$7500.

COMPLAINTS:

It was alleged that a physician had removed a mole and then failed to properly advise the patient that a melanoma, which was not completely excised, had been found. Furthermore, when the patient made inquiries, the patient was reassured that further treatment was not necessary. The Committee referred the matter to the Review Committee.

An elderly patient with back pain had attended an Emergency Department. She was sent home without investigation, and was subsequently found dead of a heart attack. The physician responded that there were no symptoms suggestive of a significant problem and as a consequence, no investigations were considered necessary. The Committee noted the brevity of the physician's notes and the complete lack of investigation made the situation vulnerable to a complaint. The Committee did not feel that further action was necessary on the matter.

A physician had been the subject of an earlier complaint, but had failed to respond to the College despite repeated requests. As a result, a further complaint was generated. After the physician acknowledged the error, it was determined to take no further action. Physicians are reminded that there is an ethical and legal responsibility to respond to inquiries from the College.

A patient had a procedure performed which she claimed later was unnecessary, or improperly done, resulting in various complications. In response, the physician asserted that the care provided was appropriate. He feels the anxiety of the patient may have been increased because the husband of the patient had requested that all communication be only to him, rather than the patient. The Committee agreed that this scenario created the likelihood of increasing the anxiety, rather than decreasing it. There was no deficiency in the care provided, but clearly the physician had an obligation to communicate directly with the patient.

A complaint arose out of the care provided to the family member of a physician. Various disputes arose between this physician and the admitting and consulting physicians. At one point, at least one heated argument was generated. In reviewing the matter, the Committee noted the potential difficulty in a situation where it appeared that the family member, as a physician, was inappropriately active in the care of the patient. The *Code of Ethics* precludes most treatment of family members by physicians. In the spirit of that, there should also be limited interference by physicians in the care provided to family members while under the care of another. While it is understood that physicians in such circumstances will want to participate, they should also be cognizant of the difficulties which can result.

The Committee referred four complaints against one physician and a

single complaint against another to Boards of Inquiry.

CONFIDENTIALITY

As members may be aware, a recent report from Ontario has recommended changes to the rules concerning confidentiality for physicians. The basic focus of the report is as follows:

Physicians should have a duty to inform a third person when a patient threatens to cause serious harm to another person or persons, and it is more likely than not the threat will be carried out. The need to protect the public from likely risks of serious harm supersedes the physician's duty to keep patient information confidential.

Over the last several years, the College has dealt with a few complaints regarding physicians breaching confidentiality when they felt a duty based on a potential risk to others. Council has always found these difficult situations to adjudicate and has felt, as such, that each must be judged on a case-by-case basis. Thus, there is some reluctance to articulate a clear standard such as is quoted above. Nevertheless, Council wishes to hear from members on this issue. It would be of particular interest to hear from members regarding their own experiences when they have considered breaching confidentiality in order to protect another's interest, such as the safety of a third person.

SELECTIVE OPTING-OUT

As a result of discussions with physicians, the Council of the College provides the following advice regarding ethical difficulties which may arise when physicians provide services to patients on an opted-out basis.

Physicians are already familiar with the limits imposed under Medicare rules. Physicians can only opt out for the total management of a particular condition, including complications.

Opting out is not permissible for emergency care, for services to hospitalized patients (unless agreed to prior to admission), nor in the course of care already undertaken on an opted-in basis. The service must be otherwise available from another practitioner willing to provide it on an opted-in basis.

Beyond those limitations, there are other difficulties which may arise in the context of physicians' ethical obligations under the rules of the College, or the *Code of Ethics*.

For example, both College Regulations and the *Code of Ethics* preclude any discrimination in service, including discrimination based on "socioeconomic status". This implies that physicians would want to avoid the appearance of offering a significant advantage based on whether the service is provided on an opted-in or an opted-out basis. It is not possible to be precise as to how significant such an advantage might have to be. In the case of appointment scheduling, it likely means an advantage in terms of weeks or months, as opposed to days. Of course, if the physician provides all of a particular type of service to all patients on an opted-out basis, then such a complaint could be avoided.

In addition to this consideration, there are also provisions in College Regulations and the *Code of Ethics* which deal with professional fees in general. Fees must be fair and reasonable. Physicians must be prepared to discuss any fee charged. Receipts must be issued if requested. Furthermore, in these circumstances, it is improper to demand payment in advance of any service to be provided.

The College is prepared to advise physicians directly regarding the propriety of any approach being considered.