

COMPLAINTS & DISCIPLINE UPDATE

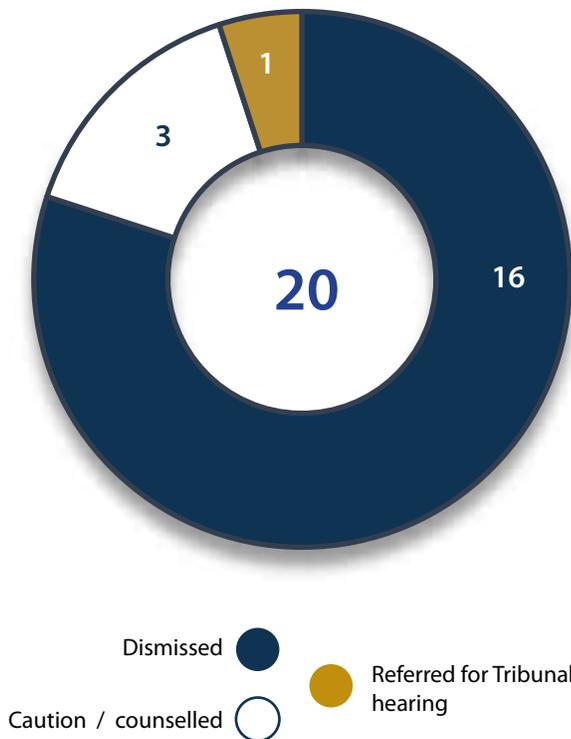


JANUARY–MARCH 2018

The *Medical Act*, 2011, requires the College of Physicians & Surgeons of Newfoundland and Labrador (CPSNL) to accept and process all written complaints against physicians.

This UPDATE reports on the College’s complaints and discipline activities for the first quarter of 2018. It provides summaries of cases in which a caution / counsel was issued by the Complaints Authorization Committee (CAC), a publicized settlement was reached through the Alternative Dispute Resolution process, or a finding was made by the Adjudication Tribunal.

CAC DECISIONS BY OUTCOME JAN.–MARCH 2018



WHAT ARE “CAUTIONS / COUNSELS”?

The Complaints Authorization Committee issues a caution or a counsel when it finds reasonable grounds to believe a physician engaged in “conduct deserving of sanction” (as defined in the *Medical Act*) but it has determined that a referral to a hearing was not warranted.

Most cautions/counsels are issued for one of these reasons:

- Failing to maintain the expected standard of practice “such as to indicate gross negligence or reckless disregard for the health and well-being of the patient” (as per the CPSNL Code of Ethics)
- A breach of the CMA Code of Ethics, often in respect to communication
- Persistent or egregious conduct toward colleagues

Many complaints can be avoided through improved communication between physician and patient.

SUMMARY OF RECENT COMPLAINTS ACTIVITY

	Jan.–March 2018	Year to Date
Complaints received	28	28
CAC meetings	4	4
CAC decisions	20	20

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ALLEGATION #1: Medical Review & Diagnostics

ALLEGATION

A 78-year-old patient on oral anticoagulant medication experienced a fall in her home **that** resulted in a head laceration. The patient's family alleged that the emergency room physician failed to order appropriate diagnostics or conduct an appropriate history and examination, and that the patient was inappropriately discharged from the hospital. Following discharge, the patient's condition deteriorated. A CT scan revealed a hemorrhage and the patient died the following day.

COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee noted that the physician did not conduct a medication review as part of the assessment, which it agreed was within the expected standard of practice for assessments. The Committee also reviewed the "Canadian CT Head Rule for Patients with Minor Head Injury" and agreed that it was within the expected standard of practice for the physician to have requisitioned a CT scan based on the criteria about the age of the patient.

The Committee further agreed that, by failing to obtain a medication history and failing to requisition a CT scan, there were reasonable grounds to believe that the physician engaged in professional misconduct as defined in the College's Code of Ethics:

(h) Failing to apply and maintain standards of practice expected by the profession in the branches or areas of medicine in which a medical practitioner is practising, such as to indicate gross negligence or reckless disregard for the health and well-being of a patient.

CAUTION / COUNSEL

The physician was counselled to:

- Apply the "Canadian CT Head Rule for Patients with Minor Head Injury" when assessing patients with minor head injuries
- Obtain full medication histories from patients.

ALLEGATION #2: Failing to Provide Medical Records

ALLEGATION

A patient alleged that a physician who was closing practice refused to provide him with a copy of his medical records despite numerous requests.

COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee agreed that the physician was expected to take reasonable steps to ensure that the patient was provided with a copy of his records in accordance with the College's policy on closure of practice. The Committee also agreed that the physician was expected to comply with the requirements for access under the *Personal Health Information Act*. In addition, the Committee agreed that there was reasonable grounds to believe that the physician engaged in conduct deserving of sanction by failing to meet these requirements.

CAUTION / COUNSEL

The physician was counselled to:

- Provide the patient with his requested medical records
- Comply with the College's Practice Guideline: "Closure of Medical Practice and Extended Leave from Practice," in particular the section regarding "Medical Records." It states:

The College expects a physician who permanently closes his/her medical practice or who is on an extended leave of absence from practice to make appropriate arrangements for the retention or transfer of patient medical records in a manner which is in accordance with the Personal Health Information Act and the College's By-Law: Medical Records.

- Comply with Section 52 of the *Personal Health Information Act*, which states that:

An individual has a right of access to a record containing his or her personal health information that is in the custody or under the control of a custodian.

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ALLEGATION #3: Religious/Spiritual Approach & Biopsychosocial Plans

ALLEGATION

A patient alleged that a physician refused to provide her with medication for her anxiety disorder and that the physician asked detailed questions about her spiritual beliefs and supplied her with religious literature.

COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee agreed that the physician was expected to develop and document a biopsychosocial plan when the patient presented with a history of anxiety. The Committee noted that at a previous appointment, the patient indicated that the physician would not provide anxiety medication as she was breastfeeding. The Committee agreed that current resources indicate that breastfeeding is not a contraindication for all types of anxiety medication. The Committee also agreed that it was inappropriate for the physician to discuss religious/spiritual beliefs with a patient who has not expressed a desire for this approach, and noted that the physician had previously received direction from the Committee in this regard.

CAUTION / COUNSEL

The physician was cautioned to:

- Avoid discussing religious/spiritual beliefs with a patient, unless the discussion is initiated by the patient.

The physician was counselled to:

- Become familiar with current resources for prescription medication use and breastfeeding and follow recommendations outlined in these resources.
- Develop and document an appropriate biopsychosocial plan for all patients who are under care for anxiety.

The College of Physicians and Surgeons NL has adopted the CMA Code of Ethics as an ethical guide for physicians practising in Newfoundland and Labrador. Physicians should familiarize themselves with this code, which can be found on the CMA website: www.cma.ca.

For further details about the complaints process, see www.cpsnl.ca.
The CPSNL Complaints Coordinator can be reached at (709) 726-8546.