

COMPLAINTS & DISCIPLINE UPDATE



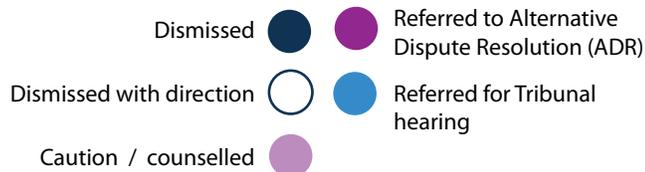
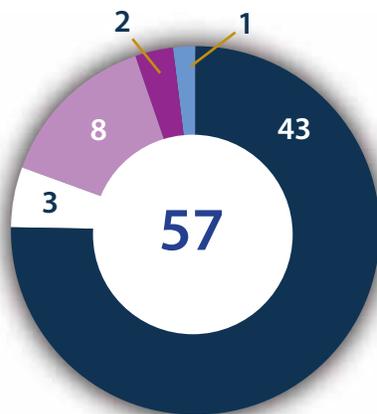
JUNE – SEPTEMBER 2017

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 third quarter of 2017. 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.

COMPLAINTS AUTHORIZATION COMMITTEE OUTCOMES

JAN. – SEPT. 2017



Q3 SUMMARY

	Q3	Year to date
Complaints received	16	60
Decisions	26	57
CAC meetings	3	11

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 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.

DID YOU KNOW?

The College recently developed a complaints brochure to send to physician members when a complaint is received against them. It is also available from the College by request.

COMPLAINTS & DISCIPLINE UPDATE

ALLEGATION #1: Complementary and Alternative Medicine

ALLEGATION

The patient's family alleged that the physician inappropriately recommended a complementary and alternative medicine (CAM) treatment; the physician had recommended a diet that decreased the patient's quality of life, and the physician provided a fitness-to-fly note when the patient had terminal cancer.

COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee retained the opinion of an external consultant on the expected standard of care and agreed that the physician's conduct fell below the standard in several areas.

CAUTION / COUNSEL

The physician was counselled to follow the College's new Standard of Practice on CAM, collaborate with the most responsible physician, document patients' full histories, conduct a focused physical examination prior to issuing a fitness-to-fly note, and discuss the risk of flying when a fitness-to-fly note is provided.

ALLEGATION #2: Clinically Significant Abnormal Finding (Case 1)

ALLEGATION

The patient's family alleged that the physician did not follow up with the patient regarding a chest x-ray report that stated a follow-up was required for a clinically significant abnormal finding.

COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee agreed that the physician who requisitioned the report was ultimately responsible for managing the clinically significant abnormal finding. The physician should have taken steps to ensure that the patient was made aware of the abnormal finding, particularly because no family physician was copied on the report.

CAUTION / COUNSEL

Counselled to review all reports which are brought to the physician's attention and appropriately manage any abnormal findings.

ALLEGATION #3: Clinically Significant Abnormal Finding (Case 2)

ALLEGATION

The patient's family alleged that the physician did not disclose to the patient that a nodule had been noted on a CT scan and did not follow-up on the result.

COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee agreed that the physician who requisitioned the report was ultimately responsible for managing the clinically significant abnormal finding. The Committee noted that the physician reviewed the CT scan for the purpose it was ordered but did not review the accompanying report. The Committee agreed that when asked about the results, the physician should have reviewed the report to disclose the findings accurately.

CAUTION / COUNSEL

The physician was counselled to review the reports of all requisitioned investigations and take action on abnormal findings.

ALLEGATION #4: History and Examination

ALLEGATION

The patient alleged that the physician failed to examine her and rushed her appointment.

COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee agreed that in this circumstance it would have been appropriate for the physician to conduct an examination to rule out serious disease. The Committee also agreed that the history obtained by the physician was inadequate and that the physician did not record relevant negative or positive findings.

CAUTION / COUNSEL

The physician was counselled to: 1) obtain and document relevant clinical histories of patients that address key clinical presentations, and 2) appropriately examine and document findings consistent with those clinical presentations.

COMPLAINTS & DISCIPLINE UPDATE

ALLEGATION #5: Time of Procedure

ALLEGATION

The patient's family alleged that the physician failed to identify evidence of cancer during an investigative procedure.

COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee found that the period of time taken to perform the investigative procedure was shorter than the expected standard. In reaching its decision, the Committee considered that the patient belonged to a population category in which higher rates of cancer are expected, but did not express an opinion about whether a detectable evidence of cancer existed when the procedure was done.

CAUTION / COUNSEL

The physician was counselled not to perform this type of procedure again until supervised by a specialist physician acceptable to the College, and then to perform the procedure only according to recommended guidelines.

ALLEGATION #6: Differential and Documentation

ALLEGATION

The patient's family alleged that the physician failed to make an early diagnosis of cancer.

COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee retained the opinion of an external consultant on the expected standard of care. It agreed that although the physician did make diligent efforts to address some concerns of the patient, the physician's conduct was nevertheless below standard because the physician failed to consider appropriate differential diagnoses.

CAUTION / COUNSEL

The physician was counselled to consider and document differential diagnoses when managing patients with complex health concerns. The physician was also

cautioned against omitting from the medical record substantive discussions held with patients.

ALTERNATIVE DISPUTE RESOLUTION

ALLEGATIONS

1. The physician phoned in a prescription to a pharmacy for an immediate family member and asked the pharmacist to record it under another physician's name.
2. The physician wrote a prescription for an immediate family member and asked a physician colleague to sign the prescription.

ADR SETTLEMENT AGREEMENT

The physician acknowledged that both behaviours constituted professional misconduct. In particular, the physician acknowledged that it was in violation of:

1. The College Guideline "Physicians prescribing narcotics, benzodiazepines and other controlled substances"
2. The Canadian Medical Association's Code of Ethics, s. 20: "Limit treatment of yourself or members of your immediate family to minor or emergency services and only when another physician is not readily available; there should be no fee for such treatment."

The physician and the College agreed to the following disposition of the Allegations:

- The physician was reprimanded for professional misconduct.
- The physician was required to complete courses on prescribing and on professional boundaries before re-applying for licensure with the College.
- The physician was required to pay a contribution toward the costs of the College's involvement with the Allegations.
- A summary of the case would be published on the College's website.

This full summary is now posted at cpsnl.ca.

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