

COMPLAINTS & DISCIPLINE UPDATE

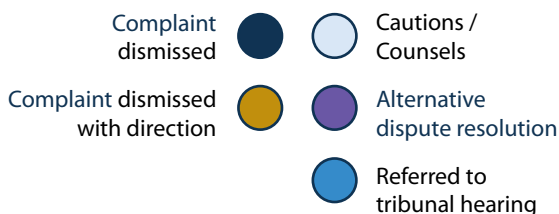
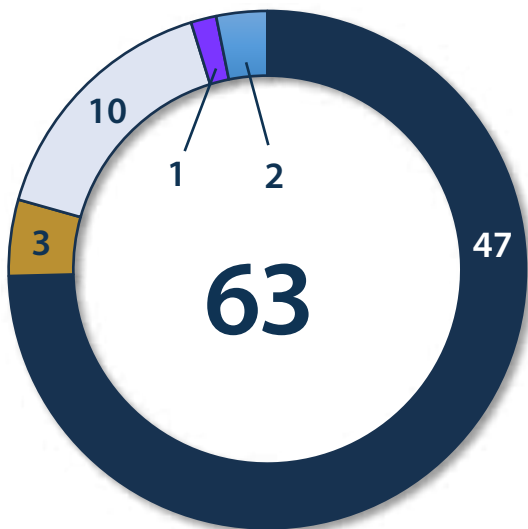


JULY–DECEMBER 2018

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 second half 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.

2018 CAC DECISIONS BY OUTCOME



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 by improving physician–patient communications.

2018 SUMMARY OF COMPLAINTS ACTIVITY

	2018
Complaints received	94
CAC decisions	63
CAC meetings	12

Median # of months from complaint received to final decision in 2018

12

COMPLAINTS & DISCIPLINE UPDATE

ALLEGATION #1: Mis-managing confusion of the elderly

ALLEGATION

An elderly patient's family alleged that an emergency room physician failed to communicate with the patient or her family and failed to provide medication to prevent blood clots. The patient presented with findings of atrial fibrillation and other co-morbidities, but the physician did not introduce oral anticoagulation or admit the patient for observation and further investigation.

COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee agreed that the physician's decision not to prescribe anticoagulants was reasonable, but that a detailed discussion with the patient and her family regarding risks of stroke with atrial fibrillation and a risk of major bleeding with oral anticoagulant should have taken place before making a decision. The Committee also agreed that the patient should have been kept in the emergency department or hospital for observation and further investigation.

The Committee agreed that 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:

1. Complete a course accredited by the College of Family Physicians of Canada on the topic

of "management of confusion of the elderly in the emergency department" within 6 months of this decision, with confirmation to the College.

2. Take a patient-centric approach to involve patients and/or their families in care planning decisions.

ALLEGATION #2: Failure to consult

ALLEGATION

A patient alleged that a physician failed to consult with a neonatologist following delivery of her baby. The baby's delivery was complicated by shoulder dystocia and cording; as a result, the baby required intubation and ventilation.

COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee agreed that based on the presentation of the baby, a consultation with a neonatologist was required, in accordance with the Regional Health Authority's policy on Hypoxic Ischemic Encephalopathy. The Committee agreed that by failing to consult with a neonatologist, 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:

- Follow established Regional Health Authority policies with respect to consultation with a neonatologist.

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ADJUDICATION TRIBUNAL HEARING

In a written decision dated October 9, 2018, an Adjudication Tribunal of the College of Physicians and Surgeons of Newfoundland and Labrador found Dr. Peter John Morry, a general practitioner, guilty of professional misconduct in relation to a complaint filed by a patient on November 30, 2017. The Tribunal accepted an agreed statement of facts as well as Dr. Morry's plea of guilty to the complaint. According to the decision of the Tribunal, the patient, a 22-year-old male university student, presented at Dr. Morry's walk-in clinic on October 8, 2015, for assessment of genital lesions. Dr. Morry took a swab of the lesions to test the patient for herpes, the results of which were later determined to be negative, and provided the patient with a prescription. The patient recalled that Dr. Morry advised him that the physicians he had visited previously were "idiots" for reaching a diagnosis of scabies. He recalled that Dr. Morry asked him how many sexual partners he had and made a comment to the effect that his response was a high number and that years ago Dr. Morry would have to ask a girl's father for permission to take a girl on a date. The patient recalled Dr. Morry phrasing his questioning as to the patient's sexual orientation as: "I assume from the way that you carry yourself that you have sex with men?" The patient also recalled Dr. Morry told him that as he was "well endowed" he could not go around and have "sex with men in alleyways." When the patient said that he had questions about his diagnosis, he recalled that Dr. Morry told him, "You know what lasts longer than love? Herpes." Dr. Morry acknowledged that it was

plausible that he made a comment to the effect that the number of sexual partners the patient had was high in his personal view. Dr. Morry also acknowledged that he failed to treat the patient with adequate sensitivity, respect, and dignity in relation to the discussion of the patient's sexual history and diagnosis.

The Tribunal found Dr. Morry's conduct was in violation of s. 4(oo) of the College's Code of Ethics, which prohibits "inappropriate comments or questions reflecting a lack of respect for the patient's dignity or privacy." The Tribunal found that his conduct amounted to conduct deserving of sanction as defined in the *Medical Act*, 2011.

The Tribunal accepted a joint submission on behalf of Dr. Morry and the College.

The Tribunal ordered as follows:

1. Dr. Morry shall be reprimanded.
2. Dr. Morry shall provide a written apology to the patient.
3. Dr. Morry will complete, at his cost, the course "Understanding Boundaries and Managing Risks Inherent in the Doctor-Patient Relationship" offered by Western University.
4. Dr. Morry shall pay the costs of the College in the amount of \$20,000.
5. The Registrar will publish a summary of the decision and order of the Tribunal with any identifying information relating to the complainant removed.

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.