

# COMPLAINTS & DISCIPLINE UPDATE

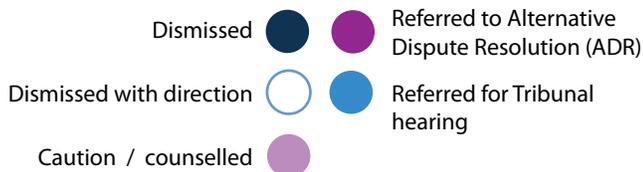
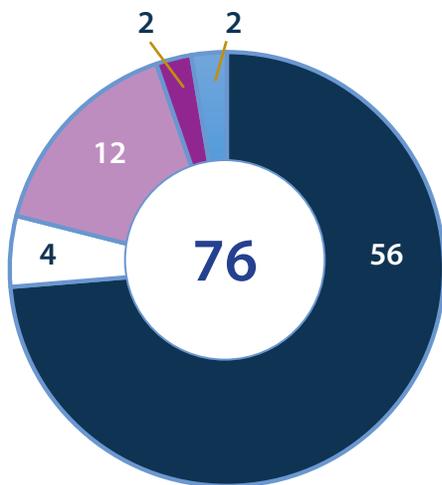


OCT. – DEC. 2017

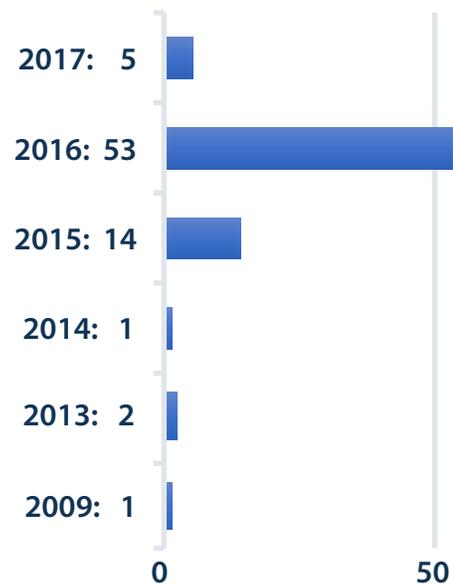
The *Medical Act, 2011*, requires the College of Physicians & Surgeons of Newfoundland and Labrador (CPSNL) to accept and process all written complaints against physicians.

This UPDATE reports on the College's complaints and discipline activities for the fourth 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.

## 2017 CAC DECISIONS BY OUTCOME



## 2017 CAC DECISIONS BY YEAR OF COMPLAINT SUBMISSION



## SUMMARY OF RECENT COMPLAINTS ACTIVITY

	Oct. - Dec. 2017	Total 2017	Total 2016
Complaints received	19	88	76
Resolved at initial stage	5	12	1
Referred to CAC	28	76	66
CAC meetings	3	14	21
CAC decisions	19	76	78

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## 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.

## IMPROVING COMMUNICATIONS: 3 TIPS<sup>1</sup>

- **Listen actively and show compassion. Partner with patients to achieve care goals**
- **Use structured communication processes and tools**
- **Document discussions, treatment plans, and other clinic issues in patients’ medical records**

1 *Perspective*, Vol. 9, No. 4, published by the Canadian Medical Protective Association

## ALLEGATION #1: Physical Examination

### ALLEGATION

The patient’s family alleged that the physician failed to conduct an examination on a patient who was subsequently diagnosed with appendicitis by another physician.

### COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee agreed that, although the patient did not present as a classic case of appendicitis, the patient’s presenting symptoms of stomach pain and difficulty urinating should have caused the physician to conduct a physical examination.

### CAUTION / COUNSEL

The physician was counselled to perform appropriate physical examinations of patients and document any findings.

## ALLEGATION #2: Behaviour Towards Staff

### ALLEGATION

A group of physicians alleged that a physician displayed inappropriate behaviour towards a staff member at their clinic.

### COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee noted that the physician acknowledged using an elevated voice when speaking with a staff member and placed hands on the staff members’ arms when passing her in a doorway. The Committee agreed that the physician’s behaviour was not in accordance with the CMA Code of Ethics, which requires physicians to treat colleagues “with dignity and as persons worthy of respect”.

### CAUTION / COUNSEL

The physician was counselled to use appropriate methods of conflict resolution in the workplace and to complete a course on the respectful workplace.

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## ALLEGATION #3: Collaboration with Referring Physician

### ALLEGATION

The Registrar, based on a mandatory report from another physician pursuant to s. 41 of the *Medical Act*, alleged that an on-call physician refused to accept a patient referred for a consultation.

### COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee agreed that an urgent consultation was warranted in this circumstance and that the on-call physician should have accepted the patient. The Committee agreed that by refusing to accept a patient who was appropriately referred, the on-call physician did not consider the well-being of the patient first, as required by the CMA Code of Ethics. The Committee also agreed that by refusing to appropriately collaborate with the referring physician, the on-call physician continued to act in contravention of the Code of Ethics.

### CAUTION / COUNSEL

The physician was counselled to collaborate with other physicians and health professionals in the care of patients and the functioning and improvement of health service as detailed in s. 52 of the Code of Ethics.

*52. Collaborate with other physicians and health professionals in the care of patients and the functioning and improvement of health services. Treat your colleagues with dignity and as persons worthy of respect*

The physician was also counselled to consider the well-being of the patient first, as detailed in s. 1 of the Code of Ethics, by accepting referrals for emergencies when on call.

## ALLEGATION #4: Communication of Diagnosis and Plan

### ALLEGATION

The patient alleged that the physician failed to appropriately consider his presenting complaint, rushed the consultation, and refused to answer his questions.

### COMPLAINTS AUTHORIZATION COMMITTEE DECISION

The Committee agreed that the medical care provided by the physician appeared appropriate but felt the physician did not take appropriate steps to ensure that the patient understood the diagnosis and treatment plan. The Committee reviewed the medical record for the patients' visit and noted that the record did not meet the College's standard.

### CAUTION / COUNSEL

The physician was counselled to comply with the CMA Code of Ethics:

- 21. Provide your patients with the information they need to make informed decisions about their medical care, and answer their questions to the best of your ability.*
- 22. Make every reasonable effort to communicate with your patients in such a way that information exchanged is understood.*

The physician was also counselled to comply with the College's By-Law 6: Medical Records.

The College 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](http://www.cma.ca).

# COMPLAINTS & DISCIPLINE UPDATE

## ADJUDICATION TRIBUNAL HEARING

In its written decision (December 5, 2017), an Adjudication Tribunal of the College of Physicians and Surgeons of Newfoundland and Labrador found Dr. Ikechukwu (Steven) Madu, an obstetrician/gynecologist, guilty of professional misconduct in relation to complaints filed by three patients.

**Complaint #1:** The Tribunal found that during July 30, 2014, pre-natal clinic visit, Dr. Madu did not provide adequate supervision to a medical resident assessing Complainant Lambert for Dr. Madu. It also found that Dr. Madu did not put a plan in place to induce Lambert at 38–39 weeks, in keeping with her acknowledged diabetic status. Lambert was admitted to hospital at 41 weeks. An ultrasound revealed intrauterine death.

**Complaint #2:** The Tribunal found that, on arriving in the delivery suite on June 6, 2014, Dr. Madu did not ensure that Complainant McKee was connected to the tocodynamometer, and failed to appreciate that McKee's fetal heart tracings were abnormal and steps to expedite the delivery were needed. McKee delivered a stillborn infant.

**Complaint #3:** The Tribunal found that on July 18, 2014, Dr. Madu proceeded with a gynecological surgical procedure (endometrial ablation) on Complainant Hynes-Pelley without assuring himself of her documented history. The Tribunal also found that Dr. Madu failed to discuss and document the risk and benefits of this surgical procedure.

The Tribunal found that in each complaint, Dr. Madu failed to apply and maintain the standards of practice expected by the profession as defined in s. 4(h) of the College's Code of Ethics. The Tribunal found that his

actions in complaints amounted to conduct deserving of sanction as defined in the *Medical Act, 2011*.

The Tribunal accepted a joint submission on behalf of Dr. Madu and the College that indicated that Dr. Madu's licence to practise medicine in the area of obstetrics was suspended by the Quality Assurance Committee of the College in August 2014. The joint submission also indicated that Dr. Madu underwent two external assessments of his skill and competence to practise obstetrics and gynecology, and successfully completed his Royal College of Physicians and Surgeons of Canada final examination prior to receiving a full licence to practise obstetrics and gynecology in April 2016. The Tribunal ordered that Dr. Madu:

- provide a written apology to each of the Complainants
- appear before the Adjudication Tribunal to be reprimanded
- have his licence to practise medicine suspended three months.
- complete a continuing education course addressing ethical conduct and informed consent
- pay the College's costs related to the investigation and hearing, in the amount of \$20,000

The Registrar will publish a summary of the Decision and Order of the Tribunal.

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