CENSURE: IC1902
DR. AARON MATTIS MELLON

On September 19, 2014, in accordance with Section 47(1)(c) of *The Medical Act*, the Investigation Committee censured Dr. Mellon as a record of its disapproval of the deficiencies in his conduct. Censure creates a disciplinary record which may be considered in the future by the Investigation Committee or an Inquiry Panel when determining the action to be taken following an investigation or hearing.

I. PREAMBLE

Physicians are required to take an adequate history from a patient and conduct a physical examination appropriate to the complaint presented. When a presenting complaint indicates a focused physical examination is warranted, it is inappropriate to defer that examination until the patient has scheduled a complete physical examination.

Physicians are required to keep legible and adequate records of the care they provide to patients, including a record of any diagnosis made and any treatment prescribed. When a patient declines a proposed treatment, that refusal must also be documented.

Physicians are required to be proactive when a patient presents with a medical condition of some urgency, including endeavouring to obtain expedited appointments for investigations and/or for specialist appointments.

Physicians are required to communicate with their patients, fully informing the patient respecting the diagnosis, the treatment options, and the possible adverse consequences of declining a treatment which is offered.

Physicians are required to be scrupulously honest in their dealings with the College.

II. THE RELEVANT FACTS ARE:

The Committee assessed the facts as follows:

1. At all material times X, who was born in 1945, was a patient in Dr. Mellon's family medicine practice.
2. On or about April 11, 2011, X presented to Dr. Mellon complaining of increased frequency of voiding, nocturia and periods of loss of bladder control. Dr. Mellon's record does not adequately detail these complaints. Dr. Mellon did not conduct a physical examination and instead advised X to make an appointment for a complete physical examination. Dr. Mellon prescribed Flomax. Dr. Mellon's record documents that X was following up with a urologist.
3. Laboratory results reveal that X's creatinine was 91 in March 2010, 111 in November 2010 and 122 in April 2011.

4. X did see his urologist on May 30, 2011, at which time they discussed his voiding difficulties and the urologist conducted a physical examination of X's prostate. X commenced taking the Flomax.
5. X next saw Dr. Mellon on June 20, 2011. Dr. Mellon documented "BPH" and he renewed a prescription for Flomax. Dr. Mellon's record does not adequately detail this complaint. X advised that he wanted to wait until he had assisted a family member with that person's medical concerns before booking his annual physical.
6. X next saw Dr. Mellon on June 23, 2011, at which time Dr. Mellon stated that X was concerned about symptoms of mild dysuria on Flomax, and Dr. Mellon suggested he book a physical so that Dr. Mellon could assess his prostate. Dr. Mellon ordered a 24 hour creatinine clearance and bloodwork.
7. On July 7, 2011 the 24 hour urine creatinine clearance Dr. Mellon ordered was reported as being 111 mls per minute.
8. The bloodwork results revealed elevated potassium. In Dr. Mellon's absence from the office, a colleague contacted X on July 12, 2011 and directed him to attend the Emergency Department for care.
9. On July 12, 2011, X attended Victoria Hospital Emergency Department and was treated with Kayexalate. The discharge summary, a copy of which was sent to Dr. Mellon, documented the Emergency Department physician's assessment that the hyperkalemia was secondary to progressive renal insufficiency, the etiology of which was unclear. The Emergency Department physician advised X to stop taking any NSAID, to continue to take Kayexalate and to follow-up with Dr. Mellon. The discharge summary states that the Emergency Department physician deferred to Dr. Mellon for management of X's potassium and renal insufficiency, but presumed X would be referred to nephrology at some point.
10. X next saw Dr. Mellon on July 14, 2011. Dr. Mellon ordered bloodwork for him to be repeated every week, and agreed to refer X to a nephrologist. Dr. Mellon assessed X's vital signs, and documented his cardio sounds as normal and his respiration as clear, but he did not conduct a physical examination to assess the possibility of obstructive uropathy as a cause for the findings. Dr. Mellon's record contains no documentation of discussions with X about the cause of his renal failure.
11. Dr. Mellon's letter dated July 15, 2011 to the Nephrology Department states:

    > Patient is a 66-year-old male with history of hyperkalemia. Was sent to Emergency and received kayexalate. Potassium returned to normal. Recheck pending. Creatinine trending from 90 – 120 over the last year. Recent creatinine clearance normal. Patient concerned.
    > Past Medical History: BPH, RA, previous inguinal hernia.
    > Past Surgical History: Appendectomy.
    > Social History: [states marital status, offspring].
    > Allergies: No known drug allergies.
    > Current Medications: Patient was on Celebrex sporadically, has now been discontinued. Continues to be on Lipitor 5mg po od.
    > Physical Examination: [states height and weight].

12. X next saw Dr. Mellon on July 20, 2011, but he has no note of this visit.

13. X next saw Dr. Mellon on July 27, 2011. X expressed concern about his elevated potassium level at 5.8 and his creatinine at 130. X reported increased night time distress with incontinence. Dr. Mellon did not conduct a physical examination other than blood pressure and a cardiovascular examination. Dr. Mellon's note of the visit documents BPH as a possible cause. Dr. Mellon told X that obstruction was a possibility, but did not explain to or discuss with X the potential risks to his kidney function, as Dr. Mellon assumed that X would be aware as a result of his knowledge of anatomy and physiology. Dr. Mellon ordered a renal ultrasound and documented an intent to make a referral to X's urologist.
14. The requisition for the renal ultrasound which Dr. Mellon completed on July 27th gives a clinical history of "BPH & CRI". The renal ultrasound was scheduled for September 19, 2011, and Dr. Mellon made no effort to obtain an earlier appointment.
15. Dr. Mellon's letter dated July 27, 2011 to X's urologist states:

> This patient is a 66-year old male with increasing mild chronic renal insufficiency. He also has lower urinary tract symptoms worsening secondary to BPH. There is some concern about obstructive uropathy.
>
> I will obtain a renal ultrasound and repeat blood work is pending.
>
> I would appreciate your assessment. I am wondering about urodynamics or possibly cystoscopy.
>
> Past medical history includes BPH, RA (stable), white-coat hypertension, inguinal hernia, appendectomy.
>
> He is [states marital status and offspring]. No known drug allergies.
>
> Current medications include Lipitor 5 mg. p.o. o.d. The patient is unable to tolerate Flomax.
>
> He is [states height and weight].
>
> Please assess for BPH.

16. X's medical record documents that the letter to the Nephrology Department and to X's urologist were not mailed until August 5, 2011.
17. X next saw Dr. Mellon on August 11, 2011. Dr. Mellon's note states "BPH, incontinence, CRI". Dr. Mellon prescribed Xatral and noted the referral to urology. Dr. Mellon did not conduct a physical examination.
18. At the August 11, 2011 visit, X inquired about travel to the United States and Dr. Mellon advised him it was acceptable to travel but not to remote areas and that he should always be accessible to a washroom.
19. While X was in the United States, he contacted Dr. Mellon's office for laboratory results and was advised that Dr. Mellon wished to see him.
20. X next saw Dr. Mellon on September 6, 2011 at which time Dr. Mellon told him that he needed to be catheterized. X declined catheterization as he had an appointment with his urologist scheduled for September 13. Dr. Mellon's response to X was "they are your kidneys." X continued to decline the catheterization.
21. Dr. Mellon stated to the College that X had previously declined catheterization on July 14, July 27, and August 11, but there is no record of such in Dr. Mellon's clinic chart for X, and no mention of X declining catheterization in Dr. Mellon's letters to the Nephrology department or the urologist, although neither letter was sent until August 5, 2011.

III. ON THESE FACTS, THE INVESTIGATION COMMITTEE RECORDS ITS DISAPPROVAL OF DR. MELLON'S CONDUCT IN:

1. When X presented to Dr. Mellon in April and June 2011 with a history of steadily progressive lower urinary tract symptoms and a slowly but steadily rising creatinine level, Dr. Mellon recommended that X book an appointment for a complete physical examination and Dr. Mellon offered no focused physical examination.
2. Although Dr. Mellon stated that on July 27th he was aware that obstructive uropathy was a possible cause of X's symptoms, and a focused physical examination to assess his prostate or to assess for distended bladder was appropriate, despite symptoms there is no record of Dr. Mellon conducting such an examination or of X declining such an examination in July or August 2011.
3. Although Dr. Mellon stated that he appreciated the severity of X's condition and the urgency regarding X's condition, Dr. Mellon failed to take appropriate steps to have the condition treated:
    a. Dr. Mellon did order blood work which revealed progressively deteriorating renal function, but he took no action on the results until he ordered a renal ultrasound on July 27th,
    b. Dr. Mellon was aware that the renal ultrasound was scheduled for September 19th, and yet he made no effort to expedite the test or refer X to the Emergency Department for a bladder scan on an urgent basis,
    c. Dr. Mellon made referrals for specialty appointments but did not send these until August 5, 2011 and did not document in his referral letters all relevant information respecting X's condition, and
    d. When X consulted Dr. Mellon about travel to the United States, Dr. Mellon did nothing to assess for a distended bladder, he did not explain to X the potential risks to his kidney function, and he did not counsel X not to travel despite his steadily rising creatinine levels and progressive urinary symptoms, which by this point included frequent incontinence.
4. Dr. Mellon's record does not document any discussion with X about:
    a. obstructive uropathy as a cause for his renal failure until July 27,
    b. the potential risks to kidney function,
    c. his planned trip to the United States, or
    d. the potential consequences of declining catheterization on September 6th.
5. When the College requested a transcript of Dr. Mellon's handwritten chart notes, Dr. Mellon submitted a document which contained information additional to that which is contained in his chart entries.
6. In Dr. Mellon's correspondence to the College and in his interview with the investigator, Dr. Mellon indicated that he offered X catheterization in July and August 2011, when his record indicates that he first offered catheterization on September 6, 2011, and his letters

referring X to specialists do not document any such refusal even though that information would have been highly relevant to the referral.

Dr. Mellon paid the costs of the investigation in the amount of $4,874.15.