

COLLEGE OF PHYSICIANS AND SURGEONS OF MANITOBA

INVESTIGATION COMMITTEE DECISION

CENSURE: IC1060 (IC04-12-05) DR. MARC ROBERT FOURNIER

On January 25, 2011, in accordance with Section 47(1)(c) of *The Medical Act*, the Investigation Committee of the College censured Dr. Fournier with respect to his failure to maintain professional liability coverage in accordance with the requirements of Regulations 9/94 and 25/093, his false declarations on his annual renewal forms filed with the College in 2002, 2003 and 2004, and his failure to comply with By-Law No. 1 of the College.

I. PREAMBLE

Pursuant to Regulations made under *The Medical Act*, physicians are required to possess and maintain professional liability coverage that extends to all areas of the physician's practice, through either or both of membership in the Canadian Medical Protective Association and a policy of professional liability insurance that meets the requirements stipulated in the Regulation.

Annually, physicians are required to sign a Declaration confirming their compliance with the statutory requirement to maintain professional liability coverage. Making a false declaration of compliance is professional misconduct.

By-Law 1 of the College requires physicians to advise the College in writing of any change in their practice location no later than 15 days after the date of any change.

II. THE RELEVANT FACTS ARE:

1. On Dr. Fournier's renewal form dated September 30, 2002, he stated that he was a member of the Canadian Medical Protective Association, and he undertook to maintain that membership while he remained licensed to practice medicine in Manitoba.
2. On Dr. Fournier's annual renewal form dated September 30, 2003, he stated that he had professional liability coverage that extended to all areas of his practice through his membership in the Canadian Medical Protective Association, and he undertook to maintain that membership while he remained licensed to practice medicine in Manitoba.
3. On Dr. Fournier's annual renewal form dated August 31, 2004, he stated that he had professional liability coverage that extended to all areas of his practice through his membership in the Canadian Medical Protective Association, and he undertook to maintain that membership while he remained licensed to practice medicine in Manitoba.
4. In December, 2004, the College received information that Dr. Fournier was practising at a clinic, and had been practising at that clinic since August, 2004.

5. In December, 2004, the College was informed that Dr. Fournier had not maintained his membership in the Canadian Medical Protective Association. Subsequent inquiries confirmed that Dr. Fournier had no membership in the Canadian Medical Protective Association during the period June 1, 2002 to December 31, 2004.
6. When questioned by the College, Dr. Fournier indicated that:
 - a. he had entrusted his financial affairs to a third party, and believed that his payments to the Canadian Medical Protective Association had been maintained.
 - b. the Canadian Medical Protective Association sent Dr. Fournier notice in July 2002 and August 2002 that his membership would be cancelled for non-payment, but he did not believe that he saw the notice until he was reviewing his documents in 2005.
 - c. Dr. Fournier had several practice location changes over the years, and was uncertain what notice had been provided to the College as to his practice locations.
7. Dr. Fournier provided a substantial amount of information about his personal circumstances, including his personal health circumstances, which the Investigation Committee took into account in assessing his conduct.

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

1. Practising without professional liability insurance coverage in violation of Regulation 9/94 and Regulation 25/03.
2. Making false declarations to the College in 2002, 2003 and 2004 respecting his professional liability coverage.
3. Failing to notify the College of his change of practice location as required by By-Law No. 1 of the College.

In addition to appearing before the Investigation Committee to accept the censure, Dr. Fournier paid the costs of the investigation in the amount of \$2599.25.