

This newsletter is forwarded to every licensed medical practitioner in the Province of Manitoba. Decisions of the College on matters of standards, amendments to regulations, by-laws, etc., are published in the newsletter. The College therefore expects that all practitioners shall be aware of these matters.

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FROM YOUR PRESIDENT DR. BRENT KVERN



As I start in the role of 2014-2015 President of your College of Physicians & Surgeons of Manitoba, I would first like to thank the Past-President, Dr. Dan Lindsay, for his leadership and work ethic during his term as President. As well, I wish to thank all elected members to Council, especially those joining us as new councillors, for allowing their names to stand to participate in the College, and to those councillors who have agreed to be on this year's Executive Committee – I am looking forward to working with all of you.

As I write this, I am participating in the Search Committee charged with finding a replacement for Dr. Bill Pope – who will be retiring at the end of this calendar year after 15 years as the College's Registrar and CEO. Thus I have been

thinking quite a bit about what the College of Physicians and Surgeons is, and what is needed to best serve the College as we move forward.

The College is a public organization, established with its duties and expectations defined by provincial legislation, overseen by a Board composed of both elected physician members and public representatives named by Government and the CPSM. A staff of approximately 30 people supports the main functions of Qualifications and Registration, Standards, Complaints and Investigations, as well as Inquiry. Government also ‘purchases’ services – through Service Purchase Agreements with the College - in areas such as Maternal and Perinatal and Child Health Standards Committees, MANQAP (ensuring excellence in laboratories and diagnostic imaging sites) and opioid prescription monitoring.

As a profession, we are fortunate to be able to regulate ourselves – the overseeing of which has been delegated to the CPSM from Government through legislation. Not only will we be changing registrars this year, but the Act defining the ‘what’ and the ‘how’ of our College is being changed with the introduction of the Regulated Health Professions Act. What will not be changing, however, is that the College exists to ensure excellence in the provision of care and as the place for complaints and concerns from the public to be brought forward, reviewed and adjudicated.

Thus your physician colleagues who sit on council and the various committees of the CPSM put aside their individual physician-centric concerns and debate issues and set policy using the lens of what is in the best interest of the public. We are dealing with many significant issues in the midst of all the changes I’ve outlined. These include: how should physicians best harness the value of the digital world to ensure they work in systems

designed so mistakes occur less frequently and improvements in care can be easily measured; can the complaints and investigations systems be made more meaningful to both the public and the involved physicians; how do we identify physicians most at risk for poor medical-decision making and intervene with early help and support?

These are only a sampling of some of the potential issues your CPSM council is likely to face. We are lucky to be living in a province where the College’s relationship with key players – such as Government and the University – is fundamentally sound and respectful. But the College also needs to have a relationship with you – its members – beyond that of receiving the dreaded CPSM envelope marked ‘confidential’. Feel free to talk to the councillor elected from your area, or to contact me directly at thepresident@cpsm.mb.ca.

Sincerely yours
Brent Kvern, MD

Records of User Activity (RoUA)

In June, 2014, the College received a document from Manitoba Health, Healthy Living and Seniors identifying certain expectations and responsibilities of physicians who retain patient’s medical information in an electronic medical record.

The link to these records is attached immediately below. The College encourages all members to review their responsibility under these guidelines.

<http://cpsm.mb.ca/cjj39alckF30a/wp-content/uploads/MedicalRecordsGuidelines.pdf>

NOTES FROM THE REGISTRAR



*M*eeting of Council - March 14th, 2014:

Following the February Elections, Dr. Jacobi Elliott, Dr. Daniel Lindsay, Dr. Wayne Manishen, Dr. Ockie Persson and Dr. Hisham Tassi were all re-elected as Councillors for another 4 years.

Council approved Statement 187 – Marijuana (Cannabis) for Medical Purposes. This Statement is now on the College website.

The Complaints Committee terms of reference were modified to permit a complaints panel, who received a referral under *The Prescription Drugs Cost Assistance Act*, to refer physicians to an education program approved by the Chair of the Complaints Committee. This process arises from the new Manitoba Monitoring Drug Review Committee (MMDRC) set up by Manitoba Health but with strong representation from the College of Physicians & Surgeons of Manitoba.

Council spent some time discussing the document “Professional Responsibility toward Undergraduate and Postgraduate Medical Learners”. The policy is shared with the Faculty of Medicine, University of Manitoba. As well, Council suggested this be applicable to all

education processes involving physician members of this College and not just those involving medical learners.

Marijuana Authorization: The College Statement on our members authorizing the dispensing of Marijuana to patients identifies some expectations that are shared broadly across the country by other Colleges of Physicians & Surgeons. Your Council is aware that many physicians are concerned about being asked to authorize marijuana. Many members are unsure of its medicinal value. When the federal government first passed legislation to permit authorizing marijuana, your College suggested that, as with any other medication, no member should be approving its use unless the member was satisfied that it was an appropriate medication for the patient. In addition, all other therapeutic options should be tried before marijuana was supported as a medication for patients. Also, at that time, members were urged to prescribe the pharmaceutical form - dronabinol and nabilone - rather than the dubious dosage that might be provided by smoking cannabis. Physicians should be aware that they must carefully consider if marijuana is a reasonable and appropriate medication for any patient. If you are not satisfied, your College does not require that you authorize its use. Your Council also does not support that physicians should be dispensing marijuana. Any physician who wishes to dispense any medication must obtain the approval of the Physician Dispensing Committee comprised jointly of members from the College of Pharmacists of Manitoba and the College of Physicians & Surgeons of Manitoba. More recently the Federal Health Minister, Ms Ambrose, has indicated that there will be some modifications to the federal regulation which will allow the medical regulatory authorities to obtain information about which physicians are authorizing marijuana and the amounts.

Regulated Health Professions Act: - I am sure that it seems to many physicians that I have been writing about *The Regulated Health Professions Act* in these newsletters for much of my term as Registrar. That seems to be the case to me, as well! We are entering the final stretch for this legislation. During the month of July, the College was sent the first draft of the regulation (i.e. the rest of our new *Medical Act*), by the legislative drafters. This is, in effect, everything that applies to medicine except the Standards of Practice document which has already been approved. Over the summer your Registrars spent many days reviewing the drafting and sent back the first series of comments at the end of July. The majority of this regulation deals with the changes to Qualifications. It does, however, also contain such important areas as continuing competency, titles, reserved acts, delegation, supervision, practitioner profiles and medical corporations.

Meeting of Council - June 4th, 2014:

At the Annual General Meeting Council welcomed the 4 newly elected councillors - Dr. David Pinchuk, Dr. Nicole Riese, Dr. Eric Sigurdson and Dr. Michael West. Congratulations to all. As well we gave thanks and best wishes to our departing members – Dr. Margaret Burnett, Dr. Blair Henderson, Dr. Bruce Kowaluk, Dr. Andrew MacDiarmid and Dr. Rod Onotera. Drs. Burnett, Kowaluk and MacDiarmid all served the College as President. We offer them our grateful thanks and wish them well in their future.

At the end of the AGM, Dr. Brent Kvern assumed the position of President and Dr. Alewyn Vorster as the President-Elect.

Dr. Helmut Unruh accepted the position as Chair of Finance Committee and Treasurer.

Of importance to members, the 2014-2015

yearly fee for renewal of licence remained at \$1,700.00

A number of important areas were discussed including:

- After Hours and Vacation Coverage
- Medical Marijuana
- Conscientious Refusal
- Professional Responsibility Toward Undergraduate and Postgraduate Medical Learners
- As well, Council recommended to Manitoba Health that Talwin no longer be prescribed or dispensed in Manitoba. This request will be submitted jointly with the College of Pharmacists and the College of Registered Nurses.

Registrar's Retirement – during the summer the Registrar Search Committee will continue to interview potential candidates and I hope that a final selection will be announced at Council on September 19th, 2014. It has been my privilege to serve the profession and our patients for almost 20 years and I thank you for this honour.

William D.B. Pope
Registrar/CEO

Practice Address

*I*t is important that if you are changing your practice location you must notify the College immediately so your Physician Profile can be updated and current. You can email your change of location to cpsm@cpsm.mb.ca.

New Statements – It's Worth Paying Attention to Them

Periodically, the Council of your College approves a new Statement which is identified in the next newsletter. The March, 2014 newsletter included Statement # 178 – “Collaboration in Patient Care”. Recently the College received calls from members concerned that the requirements had not been met adequately by some physicians.

Of importance was item # 11 – “Except in an emergency situation, a referral request by a member must be provided in writing and include at least the following information:

- a) The identity of the referring member;
- b) The identity of the patient, including the Manitoba Health number and contact information;
- c) The identity of the consultant or service to whom the patient is being referred;
- d) The date of the referral;
- e) The purpose of the referral as intended by the referring member, including an opinion only or a transfer of care is requested;
- f) Pertinent clinical information, included results of clinical investigations.

In the case of the concerns raised to the College, the consultants felt that there was an inadequate amount of patient clinical information supplied.

Members should read this Statement carefully. There are new and specific expectations both of the referring physician and particularly of consultants who do receive a consultation request.

In succeeding newsletters, we will identify other Statements where members may not be clear of final expectations.

From the College of Pharmacists of Manitoba

Recently there has been an increase in incidences where a prescriber has lost or had stolen their Manitoba Prescribing Practices Program (M3P) pad(s) from their possession. The College of Pharmacists of Manitoba manages the distribution of M3P forms, and is now routinely receiving reports of lost or stolen pads once or twice weekly. Accordingly, we wish to remind all prescribers that M3P pads are to be stored in a secure manner at all times. Please be reminded of the desirable nature of the M3P forms in terms of the illegal sale of prescription medications, and the possible harm that is associated with the drugs covered by the program.

Please recall that one of the acknowledgments a prescriber declares when applying for M3P authorization is as follows:

- *I am required to keep secure and be accountable for every prescription issued under my name. Loss or theft of pads will be reported promptly both verbally and in writing to the Manitoba Prescribing Practices Program (M3P).*

In the event of loss or theft, please contact the College of Pharmacists of Manitoba immediately. You are required to report the missing M3P form numbers which are indicated in red along the margin of each form.

The College of Pharmacists of Manitoba will issue an alert notice to all pharmacy managers within Manitoba to advise that these lost/stolen forms are invalid. The responsible prescriber is named in the alert and their

telephone and facsimile contact information is provided in order for pharmacy managers to confirm the legitimacy of prescriptions received in that prescriber's name.

Thank you for your diligence in this matter.

Todd Mereniuk, B.Sc, B.Sc.(Pharm.)
Assistant Registrar - Field Operations
College of Pharmacists of Manitoba
200 Tache Avenue Winnipeg, MB R2H 1A7
Phone: 204-233-1411
Fax: 204-237-3468
Email: tmereniuk@cphm.ca

Rotavirus Program Reminder

As of April 1, 2014 Manitoba Health, Healthy Living and Seniors (MHLS) expanded the Manitoba Childhood Immunization Program to include Rotavirus vaccine. All children born after March 1, 2014 are eligible for the oral rotavirus vaccine, Rotarix, free-of-charge to be administered at 2 and 4 months of age.

Rotavirus vaccine, like **all** vaccines, must be administered by an immunization provider in an office setting while ensuring that the cold chain requirements are being met and that clients are being monitored for a minimum of 15 minutes after immunization to watch for signs of anaphylaxis.

An immunization provider is a health care professional who is registered or licensed to provide health care under an Act of the Legislature and who is authorized under that Act to administer vaccines.

All immunization doses administered must be recorded in the Manitoba Immunization Monitoring System (MIMS) either through Physician Billing or Manual reporting processes by the provider who administered the vaccine.

To review MHLS Immunization Program Standards as well other Immunization resources, please visit:

<http://www.gov.mb.ca/health/publichealth/cdc/div/manual/index.html>



Health

Public Health and Primary Health Care Division
Communicable Disease Control
4th Floor, 300 Carlton St, Winnipeg, MB R3B 3M9
T 204 788-6737 F 204 948-2040
Website www.manitoba.ca

Moving? Retiring?

If you are leaving the province or retiring from practice, By-law #1 requires that you advise the College where your records will be stored. This is so we can make note of it on your file to advise interested parties.

Claims Processing System

Within the next few months, Manitoba Health, Healthy Living and Seniors (MHLS) will be replacing the claims processing system with a new and enhanced claims processing system (*Claims Processing Solution or CPS*). On June 26, 2014, MHLS mailed a reminder letter to all practitioners in the province to ensure that all electronic billing systems used to submit claims are ready prior to the implementation of the new claims processing system. For more information, please visit MHLS's *Claims Processing* webpage at www.gov.mb.ca/health/claims. Updates are being made to the web page information on a regular basis.

Nicole Magas

Health Workforce Secretariat
Manitoba Health, Healthy Living and Seniors
Email: Nicole.Magas@gov.mb.ca

Opioid/Benzo “Corner”

History/Background

Opiates – different areas have seen ‘waves’ of abuse and addiction. For years, the only major opiate of concern for severe abuse was heroin – generally confined to coastal cities. Manitoba saw little addiction. If a physician realized a patient was overusing, he could cease to prescribe and most often the patient could not find another source.

In the late 1980’s, there was a movement to have physicians treat all pain more assertively, and to use opioids (in high doses and long term, if deemed necessary). In the mid 1990’s, Oxycontin was released, with a major marketing campaign. Major abuse of Oxycontin and other prescription opiates began to occur across Canada. Increasing rates of death and addiction have been noted in both Canada and the United States. Requests for treatment (both abstinence and Methadone) have soared. In some communities, increased rates of hepatitis C and HIV have also become a concern, associated with IV drug use.

The Federal Minister released a report this year, “First Do No Harm” that reviews this complex problem and the response needed from multiple players.

Current Activities to Monitor Potential Problem Areas

1. Medical Examiner’s meetings – a College representative has been invited to review opioid-related deaths for the last four months. On average, ten opioid deaths are reviewed monthly. These deaths occur in two groups – a younger cohort with experimentation or active substance use problems, who obtain diverted opioids –

and an older cohort (often with medication misuse, chronic depression or anxiety, and chronic pain) who die, often accidentally, after overuse of their own prescription.

2. Prescribing data
3. Incidents of concern that patients (or third parties) report by letter to the College.
4. Following data re: Methadone (for addiction) treatment.

Planned Activities

All Physicians are asked to be aware of and review the National Guidelines for the Use of Opioids in Chronic Non-Cancer Pain. (A web site with discussion of the recommendations and useful points is available at http://nationalpaincentre.mcmaster.ca/documents/opioid_guideline_part_b_v5_6.pdf)

A revised approach to opioid prescribing takes significant time. Careful assessment, screening for addiction, informed consent, and trial of therapy are some of the important steps detailed in the guidelines.

Educational activities need to be organized in Manitoba. Web links to online education will be noted in subsequent newsletters.

When patients have a sudden death that is opioid/benzodiazepine related, identified by the Medical Examiner’s Office, prescribing physicians will be notified by the College.

Dr. Lindy Lee
Medical Consultant

Need Assistance?

PHYSICIANS AT RISK

Phone 204-237-8320 (24 hours)

Information on Medical Standards for Driving for Health Care Professionals

In Manitoba, physicians are required by law to report drivers with a medical condition that may affect their ability to safely operate a motor vehicle, pursuant to section 157(1) of *The Highway Traffic Act* (HTA). In support of this reporting requirement, Manitoba Public Insurance (MPI) is pleased to announce a new section within the Driver Licensing area of their corporate website, named **Medical Conditions and Driving for Health Care Professionals**.

<http://www.mpi.mb.ca/en/DL/DL/MedCondAndDrivingForHealthCareProf/Pages/Driving-Fitness-Overview.aspx>

This new section, and accompanying web pages, has been developed as a comprehensive resource specifically for health care professionals. It explains your role in identifying and referring patients with cognitive and/or physical impairments that may impact driving ability. It contains information on processes and the various driver assessments used by MPI to determine whether an individual with a cognitive and/or physical impairment is safe to drive. It also includes a link to the recently revised CCMTA Medical Standards for Driving, along with links to frequently used forms such as a 'Report to Registrar form' (*which can be printed and completed*), and samples of the 'Driver Medical Examination Report' and the 'Report of Visual Examination' for your reference.

Please note this is a private area of MPI's website which can only be accessed through the link provided. Should you leave this section of the website to access other material within MPI's public website, you may only re-enter this site through the link provided.

Sharon Lawrence
Manitoba Public Insurance
Driver Safety & Regulatory Control
SLawrence@mpi.mb.ca

REGISTRAR SEARCH COMMITTEE

The Search Committee has been working hard over the summer interviewing and assessing candidates for this important upcoming position. We feel we will be in position in late August, early September to make a formal recommendation and extend an offer. Given the complexity of the role, and the wide array of skills deemed necessary to lead this organization, the interview itself is quite in-depth and challenging. But, speaking on behalf of the Search Committee, I feel we have had excellent candidates apply and I am confident that the College will, again, be in the capable hands of a strong and effective leader.

Brent Kvern, MD, CCFP, FCFP
Chair, Registrar Search Committee

Congratulations

Congratulations to **Dr. Martin Reed** on receiving the Canadian Association of Radiologists (CAR) Gold Medal Award for 2014.

Congratulations to the following who were honoured by Doctors Manitoba in May 2014.

- **Dr. Ken Van Ameyde** received the Physician of the Year Award in recognition of his work as a teacher, supervisor and role model for resident trainees and medical students.
- **Dr. Warren Froese** received the Dr. Jack Armstrong Humanitarian Award for the many years of selfless humanitarian services he has contributed to the Bon Berger medical clinic in the Democratic Republic of Congo.
- **Dr. Frank Plummer** received the Health Administration Award and is internationally renowned as a world-leading HIV/AIDS researcher and specialist in infectious diseases whose work has influenced public health policy in Canada and abroad.
- **Dr. Peter Nickerson** received the Manitoba Scholastic Award for his many scholarly achievements over the years including international recognition of the renal transplant program at the University of Manitoba.
- **Dr. Michael West** received the Distinguished Service Award for his many years of dedicated service to the citizens of Manitoba including the introduction of the first Gamma Knife surgery in Canada.
- **Mr. David Northcott** received the Health or Safety Promotion Award for working tirelessly as the Executive Director of Winnipeg Harvest and as an advocate for social justice in the community.

FROM THE INVESTIGATION COMMITTEE

Reporting a Medical Condition

Recently the Investigation Committee has considered cases where physicians have not disclosed past or present medical illnesses to the College on their renewal forms. The Investigation Committee would like to remind members of the full text of this question:

“Have you ever suffered from, or been treated for, or are you currently being treated for any physical or mental condition, disorder, or addiction to alcohol or drugs that may compromise your ability to practise medicine safely?”

It is important that members carefully consider this question. A physician might consider a medical condition under good control, but the College still expects reporting of it, so that the Physician Health office may monitor it appropriately.

Manitoba Health Billing – Physician Assistant, Clinical Assistant and/or Nurse Practitioner

An increasing number of physicians work with physician assistants, clinical assistants and nurse practitioners. For physician assistants and clinical assistants, supervisory agreements are in place and physicians who enter such supervisory arrangements are expected to have a clear understanding of their supervisory obligations as set out in these agreements.

Recently the Investigation Committee has reviewed several cases in which the work done

by a physician assistant, a clinical assistant or a nurse practitioner was billed to Manitoba Health under the name of a physician.

Manitoba Health has stated that it will pay for services only if the services are actually provided by a physician. For example, when a history and physical is done entirely by a physician assistant, a clinical assistant or a nurse practitioner, and the physician does not provide a service to the patient, Manitoba Health will not pay the physician for the service. Physicians are expected to be familiar with the terms and conditions which must be met to be entitled to payment from Manitoba Health and must not permit bills to be submitted to Manitoba Health if those terms and conditions are not met.

Reporting of Critical Incidents

Recently the Investigation Committee reviewed a case of a tragic surgical error which led to the patient's death. There was full disclosure by the surgeon to the patient. The surgeon took steps to discuss the case at rounds and to initiate systemic changes to avoid a similar occurrence in the future. However, the complainant was concerned that the surgeon did not identify the incident as a critical incident and did not bring the incident to the attention of the hospital's Critical Incident Review Committee.

The Investigation Committee reminds physicians that when a critical incident occurs, it should be reported as such. When the incident occurs in a facility, and raises concerns about systems issues, the physician should report the incident to the Chief Medical Officer of the hospital or health authority with a view to initiating a critical incident review.

Completion of Paperwork/Forms

Recently the Investigation Committee reviewed a case where a physician intended to complete forms required for personal care home placement. The physician documented that the appropriate paperwork had been completed, when in fact it was not. The error came to light ten months later, leading to significant delay in the patient's admission to the personal care home.

The Committee encourages all physicians to incorporate a follow-up system for such paperwork. In this case, for example, the physician's staff could have been directed to obtain confirmation of the form being received by the personal care home by the long term access coordinator. The absence of this confirmation would have triggered the physician to realize that the forms had not been completed and sent.

FROM THE STANDARDS DEPARTMENT

DO NOT USE Dangerous Abbreviations and Dose Designations

Members are reminded that some abbreviations, symbols and dose designations used on prescriptions can be misinterpreted and may result in harmful medication errors. They should never be used when communicating medication information either verbally or in writing. A list of frequently misinterpreted abbreviations can be found at: <http://www.mbips.ca/assets/dnu-poster-03-13.pdf>

MEETINGS OF COUNCIL FOR THE 2014-2015 COLLEGE YEAR

Council meetings for the remainder of the College year will be held on the following dates:

- Friday, September 19, 2014
- Friday, December 12, 2014
- Friday, March 13, 2015
- Wednesday, June 3, 2015

If you wish to attend a meeting, you must notify the College in advance. Seating is limited.

OFFICERS AND COUNCILLORS 2014-2015

President:	Dr. B. Kvern
President Elect:	Dr. A. Vorster
Past President:	Dr. D. Lindsay
Treasurer:	Dr. H. Unruh
Investigation Chair:	Dr. K. Bullock Pries
Registrar:	Dr. W. Pope
Deputy Registrar:	Dr. T. Babick
Assistant Registrar:	Dr. A. Ziomek

TERM EXPIRING SEPTEMBER 2014

Associate Members Register	Mr. I. Jones
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TERM EXPIRING JUNE 2016

Brandon	Dr. S. J. Duncan
Eastman	Dr. K. Bullock Pries, Steinbach
Westman	Dr. A. Vorster, Treherne
Winnipeg	Dr. H. Domke
	Dr. B. Kvern
	Dr. M. Boroditsky
	Dr. H. Unruh
University of Manitoba	Dean B. Postl
Public Councillor	Dr. E. Boldt
Public Councillor	Ms L. Read

TERM EXPIRING JUNE 2018

Central	Dr. E. Persson, Morden
Interlake	Dr. D. Lindsay, Selkirk
Northman	Dr. H. Tassi, Thompson
Parkland	Dr. J. Elliott, Grandview
Winnipeg	Dr. W. Manishen
	Dr. M. West
	Dr. N. Riese
	Dr. E. Sigurdson
	Dr. D. Pinchuk
University of Manitoba	Dr. I. Ripstein
Public Councillor	Mr. R. Dawson
Public Councillor	Mr. R. Dewar

CENSURE: IC2190
DR. RANDY RAYMOND ALLAN

On April 25, 2014, in accordance with Section 47(1)(c) of *The Medical Act*, the Investigation Committee censured Dr. Allan 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 expected to be familiar with the terms and conditions which must be met in order to be entitled to payment for a patient house call visit and must not permit bills for patient visits to be submitted to Manitoba Health if all applicable terms and conditions are not met. Physicians who rely on clinic owners or staff to submit bills using the physician's billing number must exercise due diligence by taking all available reasonable steps to ensure that all applicable terms and conditions are met before submitting a bill for a service.

A physician who assumes responsibility for the care of a patient in an office or in a house call service is responsible for the record in relation to the care provided. When a nurse involved in patient care under the physician's supervision creates the record, the record must reflect the physician's involvement and the physician is responsible to sign off on the care provided.

II. THE RELEVANT FACTS ARE:

1. In or about October or November 2008 Dr. Allan entered into an arrangement with a nurse practitioner and with the clinic in which they both worked. The arrangement included the following:
 - a. Dr. Allan agreed to supervise the nurse practitioner's care of patients during office visits and house call visits.
 - b. Dr. Allan was not required to be present for the nurse practitioner/patient encounters which he was supervising.
 - c. Dr. Allan was required to be available when the nurse practitioner contacted him for assistance because the nurse practitioner had a question or a concern about patient care.
 - d. The nurse practitioner was responsible for making a record of the visit.
 - e. The patient visits were billed to Manitoba Health using Dr. Allan's billing number.
 - f. Fees for the nurse practitioner/patient visits which Dr. Allan was responsible to supervise were split amongst the nurse practitioner, the clinic and Dr. Allan.
2. Dr. Allan has advised that the clinic informed him that the billing arrangement was in compliance with Manitoba Health terms and conditions applicable for supervision of a nurse practitioner.
3. Dr. Allan did not place any restrictions on the type of patient or type of health concern which the nurse practitioner could deal with during the visits for which he assumed responsibility.

4. At the outset of the supervision arrangements, Dr. Allan attended the patient visit with the nurse practitioner. After a few weeks, when he became comfortable with the quality of service being provided by the nurse practitioner, Dr. Allan no longer attended the patient encounters.
5. Dr. Allan remained available to the nurse practitioner either through his presence in the office or via telephone contact, and Dr. Allan met with the nurse practitioner approximately every week to discuss any difficult cases or other issues which arose. However, the majority of the patient issues with which the nurse practitioner dealt were within the scope of the nurse practitioner's competence and did not require Dr. Allan's input.
6. The nurse practitioner did make records of the house call visits which Dr. Allan was responsible to supervise.
7. At the outset of the arrangement, Dr. Allan did view some of the records created by the nurse practitioner for the purpose of monitoring the quality of care provided by the nurse practitioner. Later, Dr. Allan may have seen the nurse practitioner's record of care provided under his supervision if Dr. Allan provided care to a patient previously seen by the nurse practitioner. At no time did Dr. Allan review all of the records of the nurse practitioner's patient care for which Dr. Allan had assumed responsibility.
8. In 2008 there were notes of Dr. Allan's involvement in the care provided by the nurse practitioner. However, records of the nurse practitioner patient encounters for which Dr. Allan was responsible for the period January 30, 2009 and later contain no indication of Dr. Allan's involvement in the care or any indication that he had reviewed the record and signed off on the care provided.
9. Dr. Allan continued with the arrangement described above until in or about June 2009, when he left the clinic.
10. During the period from approximately January 2009 to on or about September 2009 a total of approximately \$124,726 was billed to Manitoba Health using Dr. Allan's billing number for visits to patients by the nurse practitioner.
11. In or about September 2009, Dr. Allan became aware that the clinic had continued to use his billing number for visits made by the nurse practitioner even though Dr. Allan was no longer at the clinic and no longer supervising the patient care provided by the nurse practitioner. Other than taking steps with Manitoba Health to prevent this from continuing, Dr. Allan took no action.
12. In an interview with the Investigation Chair, Dr. Allan stated that:
 - a. He made no independent inquiry as to the propriety of using his number to bill for the nurse practitioner's work.
 - b. In retrospect, Dr. Allan recognizes that the documents filed with Manitoba Health for billing purposes would lead Manitoba Health to believe that Dr. Allan saw the patients in that there was no indication to Manitoba Health that he did not see the patients.
 - c. Dr. Allan was familiar with the nurse practitioner's quality of care from observation of the nurse practitioner in the clinic setting and Dr. Allan believed that the nurse practitioner was competent to provide the services in question.

- d. In retrospect, Dr. Allan recognizes that it was inappropriate for him not to have documented his role in the care of the patients seen by the nurse practitioner, at least by signing off on the records created by the nurse practitioner.
- e. Dr. Allan takes full responsibility for his actions.

13. Dr. Allan has made arrangements to repay Manitoba Health the sum of \$124,726.

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

- 1. failing to exercise due diligence to ensure that billings submitted for patient visits under Dr. Allan's billing number met all of Manitoba Health's terms and conditions applicable to billing for those patient visits.
- 2. permitting claims to be submitted to Manitoba Health for services as if Dr. Allan had provided the services, when in fact the services were provided by a nurse practitioner.
- 3. failing to maintain patient records with respect to Dr. Allan's supervision of a nurse practitioner.

Dr. Allan paid the costs of the investigation in the amount of \$5,589.95.

**INQUIRY: IC1914
DR. CREIGHTON HUI**

On April 9, 2014, a hearing was convened before an Inquiry Panel (the “Panel”) of the College of Physicians & Surgeons of Manitoba (the “College”), for the purpose of conducting an Inquiry pursuant to Part X of *The Medical Act*, into charges against Dr. Creighton Hui (Dr. Hui), as set forth in a Notice of Inquiry dated December 9, 2013.

The Notice of Inquiry charged Dr. Hui with committing acts of professional misconduct, with contravening By-Law No. 1 of the College and with contravening Statement 104 of the College. The Notice of Inquiry alleged that Dr. Hui:

- a) During the period between April, 2011 and January, 2012 participated in the creation of misleading medical records by allowing a nurse practitioner who performed house calls to record the house calls as if Dr. Hui had seen the patient and created the records when in fact he did not, thereby:
 - i. breaching the record-keeping requirements of By-Law No. 1 of the College in effect at the material time, and/or
 - ii. breaching Statement 104 of the College, and/or
 - iii. committing acts of professional misconduct.
- b) During the period between April, 2011 and January, 2012 caused claims to be submitted to Manitoba Health for house call services as if he had provided the services, when in fact the services were provided by a nurse practitioner, thereby committing acts of professional misconduct.
- c) Attempted to mislead the College with respect to his role in the nurse practitioner's care of the patients seen by the nurse practitioner and billed in his name, by making multiple statements to the College, each of which he subsequently acknowledged were false and were misleading, thereby committing acts of professional misconduct.

The hearing proceeded before the Panel on April 9, 2014 in the presence of Dr. Hui and his counsel, and in the presence of counsel for the Investigation Committee of the College. At the outset of the hearing, Dr. Hui entered a plea of guilty to all of the charges outlined in the Notice of Inquiry thereby acknowledging that the facts alleged in the Notice of Inquiry were true and also acknowledging that he was guilty of multiple acts of professional misconduct and of breaching By-Law No. 1 of the College and of breaching Statement 104 of the College. The Panel reviewed and considered the following documents, all of which were filed as exhibits in the proceedings by consent:

- i) the Notice of Inquiry (Exhibit #1);
- ii) a Statement of Agreed Facts, containing 55 paragraphs (Exhibit #2);
- iii) a Book of Agreed Documents containing 29 documents (Exhibit #3);
- iv) the Joint Recommendation of the parties as to disposition (Exhibit #4).

REASONS FOR DECISION

Having considered the guilty plea of Dr. Hui in the context of the above noted exhibits, and the submissions of counsel for the Investigation Committee of the College and counsel for Dr. Hui, the Panel is satisfied that all of the charges and the particulars recited therein have been proven. The Panel is also satisfied that the Joint Recommendation as to disposition is appropriate and ought to be accepted. The Panel's specific reasons for its decision are outlined below.

BACKGROUND OF DR. HUI:

1. Dr. Hui obtained his medical degree from the University of British Columbia in 2008 and completed his certification in Family Medicine in Ontario in 2010. On July 1, 2010, he began his Fellowship in Emergency Medicine at the Faculty of Medicine, University of Manitoba.
2. To supplement his income, in August 2010, Dr. Hui began seeing patients at a medical clinic and doing house calls through a house call service, which was organized through a Winnipeg medical clinic.
3. After completing his Fellowship on June 30, 2011, Dr. Hui continued to work at the medical clinic.
4. In February, 2012, Dr. Hui moved to Toronto, where he continues to practice Emergency Medicine.

SUMMARY AND OVERVIEW OF EVENTS LEADING TO THE CHARGES AGAINST DR. HUI:

1. Dr. Hui entered into an arrangement whereby a nurse practitioner who worked at a medical clinic made house call visits to patients and those visits were billed to Manitoba Health in Dr. Hui's name. This arrangement continued from on or about April 8, 2011 to on or about January 9, 2012.
2. The medical records related to the visits in question were made by the nurse practitioner, but were entered using Dr. Hui's unique identifier and password in the electronic medical record, so that it appeared as if Dr. Hui had attended the patient and made the entry.
3. Billing records establish that during the period April 8, 2011 to January 9, 2012, a total of approximately \$201,223.00 was billed to Manitoba Health for house call services provided by the nurse practitioner and billed in the name of Dr. Hui. Those billings were shared by Dr. Hui, the medical clinic and the nurse practitioner as follows:
 - a) all of the fee for the house call went to Dr. Hui, and was split 70% to the nurse practitioner and 30% to Dr. Hui;
 - b) 20% of the assessment fee went to the Clinic;
 - c) the remaining 80% of the assessment fee went to Dr. Hui and was split 70% to the nurse practitioner and 30% to Dr. Hui.
4. When the College first contacted Dr. Hui about this matter, Dr. Hui responded advising that the visits occurred through a camera system which established a live link enabling him to participate in the visit from a distance. He maintained that this occurred on each of the visits in question, and that the live feed was maintained for the entire visit. Dr. Hui also maintained that although the nurse practitioner made the chart entry, he checked the records and "signed off" on the notes by the nurse practitioner. He repeated those assertions in two subsequent letters to the College and in an interview with the Investigation Chair of the College.
5. Later, Dr. Hui acknowledged that the live link was not established for each visit as he had initially maintained and that he did not check the records as initially maintained. Dr. Hui was unable to estimate the frequency with which the live link was established.
6. The facts set out in the Statement of Agreed Facts, and the extensive documentation included in the Book of Agreed Documents provide a more detailed examination of the arrangement with the nurse practitioner including the purported use of the Librestream camera system. The Book of Agreed Documents

also included patient records, computer printouts, and other documents, many of which were reviewed by counsel for the Investigation Committee of the College in her thorough submissions. Her submissions and the documents which she referred to, provided the Panel with an adequate explanation of Dr. Hui's false and misleading record keeping, Dr. Hui's misuse of his unique identifier and password (which he inappropriately provided to the nurse practitioner), the billings submitted to Manitoba Health and the numerous false statements made by Dr. Hui to the College, which he subsequently acknowledged were not true.

7. On the basis of the foregoing, the Panel is satisfied that Dr. Hui's misconduct and breaches of By-Law No. 1 of the College and Statement 104 of the College were very serious, involving false chart entries, deliberately made for financial gain, and deceitful statements made to the College by Dr. Hui with the intention of covering up his misconduct. The Panel is concerned that Dr. Hui only responded truthfully to the inquiries of the College through its Investigation Chair, when he (Dr. Hui) realized that some of his previous false statements with respect to his whereabouts at certain times could expose him to further risk of more serious penalty through his residency program.

The Panel recognizes, and the Statement of Agreed Facts (Exhibit #2) explicitly states that during the course of the College's investigation, no patient care or patient safety issues were identified and that the quality of the care provided by the nurse practitioner was "not an issue". Nonetheless, the Panel is also concerned that the arrangements between Dr. Hui and the nurse practitioner were such that there was a distinct possibility that patient care could have been compromised.

THE JOINT RECOMMENDATION AS TO DISPOSITION:

On the basis of the above-noted summary of the background facts, it is clear that Dr. Hui's professional misconduct and contravention of By-Law No.1 of the College and his contravention of Statement 104 of the College are very troubling and problematic. Given the seriousness and unacceptability of Dr. Hui's conduct, the Panel must decide upon the appropriate disposition pursuant to Section 59.6 of *The Medical Act*. The Panel has been greatly assisted in its task by the Joint Recommendation as to disposition made by counsel for the Investigation Committee of the College and counsel for Dr. Hui.

In determining the types of orders to be granted pursuant to Section 59.6 of *The Medical Act*, it is useful to carefully consider the several objectives of such orders. In general, those objectives are:

- a) the protection of the public in a broad context. Orders under Section 59.6 of *The Medical Act* are not simply intended to protect the particular patients of the physician involved, but are also intended to protect the public generally by maintaining high standards of competence and professional integrity among physicians;
- b) the punishment of the physician involved;
- c) specific deterrence in the sense of preventing the physician involved from committing similar acts of misconduct in the future;
- d) general deterrence in the sense of informing and educating the profession generally as to the serious consequences which will result from breaches of recognized standards of competent and ethical practice;
- e) protection against the betrayal of the public trust in the sense of preventing a loss of faith on the part of the public in the medical profession's ability to regulate itself;
- f) the rehabilitation of the physician involved in appropriate cases, recognizing that the public good is served by allowing properly trained and educated physicians to provide medical services pursuant to conditions designed to safeguard the interests of the public.

The Joint Recommendation in this case is:

1. A statement that if Dr. Hui were licensed to practice in Manitoba, the conduct is of such a serious nature that the appropriate penalty would be a reprimand, a period of suspension of his license, costs and publication, including his name.
2. Given that Dr. Hui is not licensed to practice in Manitoba, the penalty will be:
 - a) a reprimand;
 - b) a fine in the sum of \$10,000.00, in lieu of the period of suspension;
 - c) costs, payable by Dr. Hui to the College, in the amount of \$28,160.25, payable in full on or before the date of inquiry;
 - d) publication, including Dr. Hui's name, as determined by the Investigation Committee.

ANALYSIS

The Panel has undertaken a review of the objectives of an order pursuant to Section 59.6 of *The Medical Act*, in relation to the Joint Recommendation of the parties in this case, to satisfy itself that those objectives will be fulfilled if the Joint Recommendation is accepted.

The severe and formal rebuke issued to Dr. Hui by way of the reprimand and the publication of the disposition are intended to protect the public in a broad sense and to protect against the betrayal of the public trust. While there was no evidence that patients were medically harmed by Dr. Hui's actions there was a significant inappropriate financial burden placed on the publicly funded health care system. It is important that the public be informed that the College considers this to be wholly unacceptable.

Considering that Dr. Hui's egregious behaviour arose from a desire for financial gain, it is very appropriate that a punishment should include financial penalties.

The fine of \$10,000 is the maximum allowed pursuant to section 59.7(1)(b) of *The Medical Act*. In addition, the Joint Recommendation requires payment to the College of the sum of \$28,160.25, representing the College's costs of these proceedings. Those costs have already been paid in full by Dr. Hui. Furthermore, Dr. Hui encountered a much larger burden with respect to his obligation to Manitoba Health. He has repaid \$201,223.00 of inappropriate billings to Manitoba Health. Approximately \$140,000.00 of this amount was originally paid to the nurse practitioner and the clinic and, as a result, Dr. Hui has not had the benefit of those amounts. Therefore, Dr. Hui's total financial penalty will be almost \$180,000.00 (\$10,000 + \$28,160.25 + \$140,000).

Publication of the background facts and Dr. Hui's name serves several objectives. Publication is a form of punishment and serves as a specific deterrent for Dr. Hui. In the broad context publication serves as a general notice and informs, educates, warns and deters the profession at large.

It was the Panel's impression that Dr. Hui believed that if his original version of events, as related to the College, had been true and accurate (which he knew it was not), namely, that there had been a direct, real time, distance video supervision of each and every patient encounter, and a subsequent "signing off" by him of each chart entry made by the nurse practitioner as if he (Dr. Hui) had made the entry, those practices would have been acceptable. However, those practices would not have been acceptable because, at the very least, such practices would have been breaches of the record-keeping and charting requirements of By-Law No. 1 of the College and Statement 104 of the College. This strongly suggests that Dr. Hui's initial judgment and perceptions with respect to the appropriateness of those arrangements with the nurse practitioner and the

clinic were seriously compromised by his desire for financial gain.

That problem was seriously compounded by his repeated misrepresentations to the College in an attempt to cover up his wrongdoing. Evidence was presented during the investigation and before the Inquiry Panel that prior to Dr. Hui's involvement in this billing practice, at least one other physician at the same clinic had been similarly involved and in fact the clinic owner had been warned, in writing, by Manitoba Health, about the "fraudulent" nature of this type of activity. It would therefore appear that general deterrence is required.

When the Panel reviewed the appropriateness of the penalties, both aggravating and mitigating factors were considered. The Panel considered the following factors to be aggravating factors:

1. The fact that the creation of the misleading medical records took place over several months and involved many patients;
2. The deliberate manipulation of the Manitoba Health billing system; and
3. Dr. Hui's persistence in misinforming the College as to his activities, despite several opportunities to be truthful.

In contrast, several mitigating factors were also recognized. Specifically, his repayment to Manitoba Health of the sum of \$201,223.00, which included sums which had been ultimately received by the clinic and the nurse practitioner and not by himself, was regarded as a mitigating factor. Similarly, the fact that these charges were the first blemish on his record, and that the letters of support which were received indicate that he is a competent and respected physician with an impressive work ethic, were also considered to be mitigating factors. It is the hope of the Panel that Dr. Hui can be rehabilitated and will be able to use his training and education for the benefit of his patients and the public generally over the course of a long career. The Panel also recognizes that, as a result of these proceedings, the College of Physicians and Surgeons of Ontario will likely have a significant role to play in determining the status of Dr. Hui's licence to practice in Ontario.

The Panel has therefore decided that the objectives of an Order granted pursuant to section 59.6 of *The Medical Act* will be fulfilled if the Joint Recommendation of the parties is accepted. The Panel's decision is therefore to accept the Joint Recommendation. The Panel's decision will be more particularly set forth in a Resolution and Order being issued concurrently with these Reasons.

IN THE MATTER OF: "THE MEDICAL ACT", R.S.M. 1987, c.M90;

AND IN THE MATTER OF: Dr. Creighton Hui, a member of the College of Physicians & Surgeons of Manitoba

**RESOLUTION AND ORDER OF AN INQUIRY PANEL OF THE
COLLEGE OF PHYSICIANS AND SURGEONS OF MANITOBA**

WHEREAS Dr. Creighton Hui (Dr. Hui), a member of the College of Physicians & Surgeons of Manitoba (the College) was charged with professional misconduct, and with contravening By-Law No. 1 of the College and Statement 104 of the College and with attempting to mislead the College, as more particularly outlined in a Notice of Inquiry, dated December 9, 2013.

AND WHEREAS Dr. Hui was summoned and appeared before an Inquiry Panel (the Panel) of the College with legal counsel on April 9, 2014.

AND WHEREAS Dr. Hui entered a plea of guilty to all of the counts relating to all of the charges outlined in the Notice of Inquiry

AND WHEREAS the Panel reviewed the exhibits filed, including a detailed Statement of Agreed Facts and a comprehensive Book of Agreed Documents, heard submissions from counsel for the Investigation Committee of the College and counsel for Dr. Hui, and from Dr. Hui himself, and received a Joint Recommendation as to the Disposition of the charges and the allegations outlined in the Notice of Inquiry.

AND WHEREAS the Panel decided that the Joint Recommendation as to Disposition was appropriate in the circumstances.

AND WHEREAS the Panel decided that the Joint Recommendation as to Disposition was appropriate in the circumstances.

NOW THEREFORE BE IT AND IT IS HEREBY RESOLVED AND ORDERED THAT:

1. Pursuant to Section 56(3) of *The Medical Act, R.S.M.*, the identities of third parties, and particularly the patients of Dr. Hui, shall be protected in the record of these proceedings by referring to them in a non-identifying manner.
2. The Panel hereby declares that Dr. Hui's conduct, as particularized in the Notice of Inquiry, and the Statement of Agreed Facts, was of such a serious nature that if Dr. Hui were currently licensed to practice in Manitoba, the appropriate penalty would be a reprimand, a period of suspension of his license, costs and publication, including his name.
3. Given that Dr. Hui is not licensed to practice in Manitoba, the penalty will be:
 - a) a reprimand;
 - b) a fine in the sum of \$10,000.00 *in lieu* of the period of suspension;
 - c) costs, payable by Dr. Hui to the College in the amount of \$28,160.25, payable in full on or before the date of Inquiry;
 - d) publication, including Dr. Hui's name, as determined by the Investigation Committee of the College.

Dated this 9th day of May, 2014.