

## **SUMMARY**

### **DR. KENNETH WILLIAM ATKINS (CPSO# 73522)**

#### **1. Disposition**

On February 16, 2017, the Inquiries, Complaints and Reports Committee (the Committee) required Dr. Atkins (Family Medicine) to appear before a panel of the Committee to be cautioned with respect to properly ending the physician-patient relationship and maintaining professional communications. The Committee also issued advice to Dr. Atkins to charge reasonable fees, in keeping with the Ontario Medical Association Guidelines, for copying records.

#### **2. Introduction**

The College received a complaint from a patient regarding Dr. Atkins. In February 2016, Dr. Atkins provided the patient with a laboratory requisition. The laboratory technician somehow misread the form and ordered all of the listed tests, not just those Dr. Atkins had checked off. Before discovering that the error was the technician's, Dr. Atkins believed the patient had checked off the extra tests and, as a result, sent him a letter terminating him from his practice.

The patient complained to the College that Dr. Atkins wrongly accused him of defrauding the provincial health care system by altering laboratory requisitions; failed to follow up with him or the laboratory to determine how the additional tests were completed before deciding to discharge him as a patient; declined to renew his prescriptions without notifying him that he had been discharged from his practice; charged him \$80 for a copy of his records, which consisted of 78 one-sided pages; and failed to include a copy of the discharge letter in the copy of the patient records he received.

Dr. Atkins initially responded, in a telephone conversation with the College's investigator, that he did not "investigate the situation" (i.e., whether the patient had checked off all the tests himself), but rather, "made an assumption based on what he knows". He also indicated that he was certain the laboratory technician would not have done the tests of his/her own accord, unless the patient encouraged or requested the technician to perform the additional tests. Further, Dr. Atkins stated that he decided not to accept the patient back into his practice because the patient

was “belligerent” with his office manager and was not willing to apologize. Finally, Dr. Atkins indicated that the patient came in to his office on the same day the discharge letter was mailed (February 23, 2016), and so the patient was aware that a prescription repeat would not be provided.

Dr. Atkins subsequently responded that he was concerned with the investigator’s “antagonistic approach” to handling the matter, and that she seemed to be “determined to find flaws”. He also explained that his office apologized to the patient and invited the patient to continue on with his practice once they became aware that the patient was innocent of the allegations.

Dr. Atkins submitted a final response, in which he indicated, that before making any assumptions that the patient had altered the requisition, his office did call the laboratory and were advised that they did not add any tests (which led to the patient’s implication). However, Dr. Atkins explained that even if he had called the patient for their input, it would not have changed the outcome. Dr. Atkins also indicated that he was disappointed with the investigator’s apparent desire to see him “punished”.

### 3. Committee Process

A Family Panel of the Committee, consisting of public and physician members, met to review the relevant records and documents related to the complaint. The Committee always has before it applicable legislation and regulations, along with policies that the College has developed, which reflect the College’s professional expectations for physicians practising in Ontario. Current versions of these documents are available on the College’s website at [www.cpso.on.ca](http://www.cpso.on.ca), under the heading “Policies & Publications.”

### 4. Committee’s Analysis

Without determining whether or not the termination itself was justified (based on Dr. Atkins’ mistaken belief that the patient had altered the requisition form), the Committee was troubled by the fact that Dr. Atkins failed to adhere to the College’s policy on *Ending the Physician-Patient Relationship* when terminating the patient from his practice. In particular, Dr. Atkins’ letter clearly states that he would not provide the patient with emergency medical services in the interim. Dr. Atkins also initially refused to renew the patient’s prescriptions. Finally, Dr. Atkins

did not send the termination letter by registered mail (which in this case would have alerted him to the fact that the patient never received the letter, and hence, had not been properly notified of the termination). While the patient should have also received a copy of the termination letter in the record provided, the Committee took no further action on this issue because the Committee was satisfied that Dr. Atkins' office manager had already provided the patient with a copy.

While Dr. Atkins initially told the College's investigator that the patient had come into the office to pick up the dismissal letter on February 23, 2016, the Committee noted that there was nothing indicating that this occurred or that the patient was otherwise aware that Dr. Atkins had terminated him from his practice.

The Committee was also of the opinion that Dr. Atkins' investigation into the reasons the additional tests were ordered was inadequate. Given the seriousness of the allegations, Dr. Atkins should have made a concerted effort to confirm that the patient had been responsible for altering the requisition form, beyond merely calling the laboratory, as he asserts.

Further, the Committee was of the view that the tone of Dr. Atkins' termination letter was unnecessarily accusatory (e.g., it suggests that the patient defrauded the Ministry of Health), especially in light of the fact that he had not spoken with the patient to clarify their version of events.

Regardless of the manner in which the patient spoke with Dr. Atkins' office manager, Dr. Atkins should have apologized to the patient for his mistake, especially in light of the strongly-worded termination letter he wrote. The Committee also stated that, even if Dr. Atkins had subsequently invited the patient back into his practice (as he asserted), it did not assuage the Committee's concerns regarding how Dr. Atkins handled the termination in the first place.

The Committee was also troubled by the Dr. Atkins' communications with the College's investigator, finding that Dr. Atkins behaved unprofessionally by accusing the investigator of being biased against him. While Dr. Atkins did ultimately cooperate with the College in its investigation, the Committee was concerned that his combative attitude demonstrated a disregard for the medical profession's foundational values and policies.

The Committee's concerns in this case were heightened by the fact that the Committee had previously dealt with complaints regarding Dr. Atkins' professional communications and termination of patients, which resulted in a counsel in both 2008 and 2009.

Finally, the Committee was of the view that the fee Dr. Atkins charged the patient was unreasonable (about \$35 more than the Ontario Medical Association Guideline recommendations), and as a result, decided to provide advice to him, as outlined above.