

**SUMMARY of the Decision of the Inquiries, Complaints and Reports Committee  
(the Committee)**  
(Information is available about the complaints process [here](#) and about the Committee [here](#))

**Dr. Claire Margaret Nunes-Vaz (CPSO #24720)  
(the Respondent)**

## **INTRODUCTION**

The Respondent provides care to residents of an assisted living facility where the Patient resides. In October 2018, facility staff called the Respondent and reported that the Patient had been involved in an altercation. The Respondent issued a Form 1 under the *Mental Health Act*. The Complainant, the Patient's relative and joint attorney for the Patient's Power of Attorney for Personal Care, contacted the College of Physicians and Surgeons of Ontario (the College) to express concerns about the Respondent's care and conduct.

## **COMPLAINANT'S CONCERNS**

**The Complainant is concerned that:**

- **The Respondent failed to abide by the legal requirements of the *Mental Health Act* when issuing the Patient a Form 1. Specifically, the Respondent issued a Form 1 offsite and without assessing the Patient within the previous seven days as mandated by the *Mental Health Act*.**
- **The Respondent failed to provide appropriate care to the Patient with respect to the completion of the Form 1 (e.g. "falsifying" sections of the Form 1, providing "misleading information", failing to issue a Form 42, filling out Box B although it was not applicable, issuing the Form 1 without evidence, etc.)**
- **The Respondent failed to communicate with the Patient and his family.**

## **COMMITTEE'S DECISION**

A Mental Health Panel of the Committee considered this matter at its meeting of April 16, 2019. The Committee required the Respondent to attend at the College to be cautioned in person with respect to filling out a Form 1 under the *Mental Health Act*. The Committee also requested that the Respondent provide a written report with respect to this matter.

## **COMMITTEE'S ANALYSIS**

*Concern that the Respondent failed to abide by the legal requirements of the Mental Health Act when issuing the Patient a Form 1*

The Respondent acknowledged that she did not personally assess the Patient, but depended on the observations of staff. Based on the Committee's review of the record and the Respondent's

admission, it is clear that the Respondent did not see or assess the Patient within seven days of the completion of the Form 1, as required. There are no circumstances in which a physician can properly sign a Form 1 without having personally examined the subject of the form within the previous seven days. As such, the Respondent did not complete the Form 1 in accordance with the legal requirements of the *Mental Health Act*. The Committee requires the Respondent to be cautioned in person with respect to this concern.

*Concerns about the completion of the Form 1*

The Committee notes that if the Patient had been examined in person by a physician, a Form 1 may have been appropriate in the circumstances. However, this misses the overriding fact that the Respondent did not complete the Form 1 in accordance with the legal requirements of the *Mental Health Act*. In addition, the Committee noted that the Form 1 that the Respondent completed contained errors. The Respondent completed both Box A and Box B, which in itself makes the form invalid. The Respondent conceded that she did not issue a Form 42, as she should have. The Committee requires the Respondent to be cautioned in person with respect to these concerns.

The Committee took no further action on the concern respecting the Respondent's communication with the Patient and his family.