

SUMMARY

DR. THOMAS RICHARD MAYBERRY (CPSO# 27537)

1. Disposition

On September 23, 2015, the Inquiries, Complaints and Reports Committee (“the Committee”) required Dr. Mayberry to appear before a panel of the Committee to be cautioned with respect to his repeated prescribing of controlled substances in breach of his undertaking with the College.

2. Introduction

The Committee received information from the College’s Compliance Monitoring Department in March 2015 regarding concerns about family physician Dr. Mayberry. Dr. Mayberry entered into an Undertaking with the College on July 17, 2012, in which he relinquished his prescribing privileges with respect to narcotics, narcotic preparations, controlled drugs, and benzodiazepines. Compliance Monitoring indicated that Narcotic Monitoring System data shows instances where Dr. Mayberry had prescribed contrary to his Undertaking.

In May 2015, the Committee approved the Registrar’s appointment of investigators under section 75(1)(a) of the Code to examine Dr. Mayberry’s practice.

In his response to this investigation, Dr. Mayberry provided some assurance to the Committee that he has taken serious measures to uphold his Undertaking, including informing colleagues, writing to patients, writing to pharmacies, and requesting Health Canada to write to all pharmacies on his behalf. He has also completed a prescribing and medical recordkeeping course.

3. Committee Process

A panel of the Committee, consisting of public and physician members, met to review the relevant records and documents related to the complaint, as well as College policies and relevant legislation.

4. Committee’s Analysis

The Committee appreciates that Dr. Mayberry has worked in his small community for a long time and knows his patients well, and can understand his desire to bridge, wean and assist his patients out of compassion.

Although the Committee appreciates that other physicians were reluctant to take over narcotic prescribing for Dr. Mayberry's non-malignant pain patients, and pharmacies "refilled" certain of his prescriptions automatically, the fact remains that Dr. Mayberry did issue new prescriptions after he had signed his Undertaking. This included prescribing morphine for arthritis; oxycodone when a patient's rheumatologist refused to do so; oxycodone following a house call in August 2012; morphine; pentazocine; a "small supply" of Ativan; Tylenol 3; Adderall and Concerta.

Despite Dr. Mayberry's articulate and detailed explanations of his breaches, the Committee remained troubled that Dr. Mayberry nevertheless breached his Undertaking by prescribing controlled substances, and that he did so repeatedly. An undertaking is a voluntary, binding promise made by the physician to the College, which is posted on the public register. In the undertaking, the physician agrees to do (or not do) certain things (including restricting his or her practice), in order to address the Committee's concerns and protect the public interest.

Furthermore, it appeared to the Committee that Dr. Mayberry seems to have little insight into the initial purpose of his Undertaking, and why his repeated breaches were unacceptable.

The Committee was also concerned that Dr. Mayberry's letter to his patients, informing them about his Undertaking, was less than forthright and did not accurately reflect the reason for his Undertaking. Given these reasons, the Committee determined that the appropriate disposition is to require Dr. Mayberry to attend at the College to be cautioned in person with respect to his repeated prescribing of controlled substances in breach of his Undertaking with the College.