

SUMMARY

DR. FRANK EMIL CASHMAN (CPSO# 24446)

1. Disposition

On January 15, 2018, the Inquiries, Complaints and Reports Committee (the Committee) required psychiatrist Dr. Cashman to appear before a panel of the Committee to be cautioned with respect to his failure to review and consider a patient's complete and up to date medical information.

2. Introduction

A family member of the patient complained to the College about an Independent Medical Examination (IME) that Dr. Cashman performed on the patient in October 2013, in relation to the patient's short term disability benefits. Specifically, the family member was concerned with Dr. Cashman's failure to meet with or speak with the patient, his misrepresentation of the patient's illness and mental health condition, his inclusion of untrue statements in his report, the fact that he based his recommendations on incomplete and inaccurate information and ignored the patient's severe impairments, and his failure to act in good faith, in the best interests of the patient.

The patient's short term disability benefits were ultimately cancelled in October 2013.

On June 6, 2016, a previous panel of the Committee decided to take no further action on the complaint against Dr. Cashman. The patient's family member requested a review of the Committee's decision by the Health Professions Appeal and Review Board (the Board). In a decision dated August 23, 2017, the Board decided that the Committee's investigation was adequate. However, the Board determined that the Committee's decision to take no further action was unreasonable. Specifically, the Board noted the following:

- The record includes several indications that the patient was not in a position to return to work at the time of Dr. Cashman's report to the insurer
- The Committee's decision did not reasonably demonstrate that it considered the extent of the available information within the record
- The Committee's decision did not set out its analysis of Dr. Cashman's conduct history of complaints.

3. Committee Process

A Mental Health 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, under the heading "Policies & Publications."

4. Committee's Analysis

The Committee agreed with the Board that the previous disposition to take no further action on the complaint against Dr. Cashman was unreasonable, for the reasons that follow.

In his IME report, Dr. Cashman acknowledged that the patient had mental health issues, but encouraged the patient to return to work. However, at the time of his IME, Dr. Cashman did not have for review the patient's most recent psychiatric reports. The Committee noted that Dr. Cashman should have ensured that he had all available medical information for review before making his recommendations, and should have ensured that the documentation substantiated his recommendations.

Although Dr. Cashman was limited to a paper review, it seemed to the Committee that he nevertheless did not adequately review the patient's considerable history, and focused too

much on the last progress note from the patient's family physician, which stated that the patient had some improvement and was in remission. In performing a thorough IME, Dr. Cashman had a responsibility to obtain all current information, and to research the patient's history in sufficient depth to allow him to obtain a clear picture of the case, before making recommendations about returning to work. In failing to obtain up-to-date information, Dr. Cashman ultimately was unable to consider the severity of the patient's impairments, his mental state at the time, and his workplace stressors.

The Committee was also concerned about Dr. Cashman's use of the phrase "chronic unhappiness" in his report. While Dr. Cashman did acknowledge the patient's mental health issues, the use of this term seemed to downplay the chronic and unresolved nature of the patient's condition. The Committee felt it was entirely inappropriate for Dr. Cashman to make such a statement, in particular, without the benefit of current notes about the patient's condition, and understood why the family would take issue with the use of this term.

The Committee was also troubled by the fact that Dr. Cashman has demonstrated similar deficiencies in other cases, which has led previous panels to caution him on three occasions (in 2009, regarding clinical misjudgement in an IME; in 2011, regarding ensuring that he obtains all information necessary to support his opinion; and in 2012, regarding making firm recommendations about returning to work with incomplete information). This suggested to the Committee that Dr. Cashman has not shown sufficient insight into his past errors, since he has again relied on incomplete information in this IME. The Committee noted that it may take more significant action if it receives similar complaints or reports about Dr. Cashman's IMEs in the future.

The Committee did not find any information to suggest that Dr. Cashman wanted to "satisfy" the insurance company or that he acted in the best interest of the insurance company.