

SUMMARY

Dr. Richard Wayne Colwill (CPSO# 58335)

1. Dispositions

On July 12, 2017, the Inquiries, Complaints and Reports Committee (“the Committee”) ordered Dr. Colwill (Internal Medicine and Haematology) to complete a specified continuing education and remediation program (“SCERP”), and to attend the College to be cautioned with respect to his communications and ensuring proper consent for an examination, and his breach of boundaries with a patient. The SCERP requires Dr. Colwill to:

- complete the boundaries course offered by Schulich School of Medicine – Western University - Understanding Boundaries in Managing the Risks inherent in the Doctor-Patient Relationship;
- complete one-on-one instruction in communications to the satisfaction of the College; and
- review and provide written summaries of the College’s policies on *Maintaining Appropriate Boundaries and Preventing Sexual Abuse*, and *Physician Behaviour in the Professional Environment*, and the College’s Practice Guide.

2. Introduction

A patient expressed concern about the care she received from Dr. Colwill during a single consultation. Specifically, she expressed concern that Dr. Colwill failed to ask permission to examine her breast, touched her breast inappropriately and conducted a painful examination of her shoulders. She explained that Dr. Colwill touched her breast with his hand during the examination, and that he attempted to open her blouse without her permission, which made her uncomfortable.

Dr. Colwill denied that he touched the patient inappropriately. He described the examination he performed, and stated that the only possible contact with the patient’s breast could have

been unintentional contact when he was examining her axilla (armpit area) through her shirt. He noted that it was important for him to examine the lymph nodes in this area given the patient's history of head and neck cancer and the previous removal of lymph nodes. He stated that he did not examine any part of the patient without permission, and advised that he willingly deferred further examination when she appeared uncomfortable, despite concerns that it could produce useful insights. Dr. Colwill also denied using excessive force in any part of the examination but appreciated that the patient experienced transient discomfort. He maintained that his sole intention was to provide a comprehensive, thoughtful assessment, and that he tried his best to do so in a caring and respectful manner. He stated it was very disconcerting that the patient misinterpreted his actions and intentions despite his best efforts to explain his concerns and rationale during the examination.

3. Committee Process

A General 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 reviewed the factors that tended to support referral for a Discipline hearing, including the fact that any complaint about inappropriate touching of a patient's breast is serious (as it can constitute sexual abuse), and the fact that Dr. Colwill was the subject of a previous complaint in which a patient asserted that he made inappropriate comments of a sexual nature and conducted an inappropriate examination. The Committee in that case pointed out to Dr. Colwill that it expects that clinical examinations will be conducted in a professional environment and that every effort will be taken to make the patient feel as safe, secure, and informed as possible; and that physicians will always consider a patient's background and strive to communicate clearly and effectively, including providing explanations

about the examination that is to take place. The Committee further noted in its decision regarding the previous complaint that physicians are expected to offer patients a gown where a full clinical examination is indicated; and where examinations are conducted for female patients, that physicians will consider the advisability of offering a chaperone, which would help to minimize the chances of misinterpreted maneuvers.

In the case at hand, the Committee also noted the factors that indicated that referral for a Discipline hearing was not warranted, including the fact that examination of the patient's axilla was reasonably indicated in this case as part of a comprehensive physical assessment and that it can involve some incidental touching of the breasts; and that Dr. Colwill advised that he had no intention of touching the patient's breast during his examination, and that any contact that may have occurred between his hand and her breast was in fact accidental/incidental.

The Committee concluded that a referral to the Discipline Committee was not warranted in all the circumstances of this case.

However, the Committee noted that they had sufficient serious concerns, based on the information in the investigation record, to warrant further action. Specifically, the Committee was troubled by Dr. Colwill's history (noted above), and the fact that despite being reminded of the College's expectations, Dr. Colwill was faced here with another complaint in which a patient had expressed deep distress about the manner in which Dr. Colwill performed an examination.

The Committee was concerned about the adequacy of Dr. Colwill's communication with the patient during the course of his assessment. While he maintained that he did offer certain explanations during his examination of the patient, it was clear from the patient's submissions that she did not understand why Dr. Colwill engaged in certain aspects of the examination, which indicated to the Committee that Dr. Colwill did not adequately explain the extent of the examination to the patient, and the purpose of the same.

The Committee found it concerning that despite a similar past experience, Dr. Colwill did not seem to demonstrate any positive changes in his approach to try to avoid the situation that unfolded in this case.

In the Committee's opinion it was invasive for Dr. Colwill to try to undo the patient's blouse without obtaining her clear consent to further expose this area for additional inspection, and in the Committee's view, this represented a boundary violation. The Committee was of the opinion that it would have been far more appropriate for Dr. Colwill to have clearly explained what he wished to do, and then for him to have advised the patient to disrobe (leaving the room to allow her to do so) and provided her with appropriate draping to ensure adequate privacy during the examination, as well as the option of having a chaperone present.

Overall, the Committee was left with concerns regarding Dr. Colwill's understanding of acceptable professional boundaries in the physician-patient relationship, and his communication with the patient, specifically, regarding his failure to properly explain the examination that he was performing/intended to perform.

The Committee was satisfied that in light of the above, it was appropriate to caution Dr. Colwill and require him to complete education, as set out above.