

## **SUMMARY**

### **DR. TINH DAVID EWING-BUI (CPSO# 77062)**

#### **1. Disposition**

On October 20, 2017, the Inquiries, Complaints and Reports Committee (“the Committee”) ordered thoracic surgeon Dr. Ewing-Bui to attend at the College to be cautioned in person with respect to maintaining professional communications with patients, and displaying respectful and collegial attitudes towards other physicians. The Committee also ordered Dr. Ewing-Bui to complete a specified continuing education and remediation program (“SCERP”). The SCERP requires Dr. Ewing-Bui to engage in:

- one-to-one coaching in communications, to be facilitated by the College
- self-directed learning by reflecting on his communications with patients (and how to more effectively break bad news to patients and pay attention to patient needs when explaining health care issues), as well as his unprofessional attitudes towards colleagues and co-workers. The self-directed learning is to include a review of the College’s “The Practice Guide: Medical Professionalism and College Policies”, as well as a written summary with reference to current standards of practice (where applicable), how it is applicable to his situation, as well as how he has made, or plans to make, changes to his practice.

#### **2. Introduction**

A patient and the patient’s family member complained to the College about Dr. Ewing-Bui’s conduct and communications during an appointment to review the results of the patient’s 2017 CT scan. During this appointment, Dr. Ewing-Bui made several comments to the patient in relation to his acid reflux disease, and indicated that the nodule present on the 2017 CT scan appeared to be cancerous. When the patient’s family member asked Dr. Ewing-Bui about whether the nodule also appeared on a CT scan from the year prior (“the 2016 scan”), Dr.

Ewing-Bui looked at the 2016 scan, advised that it was present there as well (and appeared unchanged in the 2017 scan), and that the patient therefore likely did not have cancer.

In particular, the complainants were concerned that Dr. Ewing-Bui identified a lung nodule on the patient's 2016 CT scan, when the radiologist's written report did not identify one; made cruel comments to the patient, such as, "You will die in your sleep," "Only I or God would know that," and "You have one foot in the grave"; and displayed a lack of compassion and failed to offer any positive encouragement.

Dr. Ewing-Bui responded that the radiologist who issued the 2016 CT scan report acknowledged the error (failing to identify the nodule) and submitted a revised report. He also apologized if he did not appear as compassionate as he could have been, but indicated that his intention is to serve all of his patients the best way that he can.

With respect to the above-noted comments, Dr. Ewing-Bui admitted to making them. He indicated that he used the visual expression, "You have one foot in the grave," to explain how serious the patient's risk factors were, and that he gave the patient "dire warnings" of possible death in his sleep, as he wished to eliminate the preventable risk of aspiration that could lead to pulmonary damage and potential death. Finally, Dr. Ewing-Bui stated that he can tell "with almost 100% accuracy" what position a patient sleeps in by looking at the scar patterns on their lungs (in relation to acid reflux disease), and therefore used the phrase, "Only I or God would know that."

In his response, Dr. Ewing-Bui also stated that it was "not incomprehensible" that his thoracic surgeon colleague did not see the scars because they are only seen "with trained eyes"; that he finds chest CT scans often demonstrate pulmonary scars that are classic findings of chronic aspiration, yet this is barely mentioned in the majority of radiologists' final impressions or interpretations; and that many patients have been through the emergency room ("ER")

multiple times for non-cardiac chest pain, but like the patient, still are not told of the reasons why they have this pain.

### **3. Committee Process**

A Surgical 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**

In light of the radiologist's revised report, the Committee found that Dr. Ewing-Bui did provide the patient with accurate information when he noted that there was a nodule present on the patient's 2016 CT scan. The Committee also noted that, as it was limited to a documentary review, there was no way to determine with any certainty whether Dr. Ewing-Bui failed to display any compassion or provide any positive encouragement to the patient.

That being said, the Committee was very troubled by the specific comments that Dr. Ewing-Bui admitted to making ("You will die in your sleep," "Only I or God would know that," and "You have one foot in the grave,"). The Committee noted that, in making these statements, Dr. Ewing-Bui disregarded the expectations the College has of its members to uphold the reputation of the profession to communicate effectively and with respect and sensitivity.

The Committee was also troubled by the manner in which Dr. Ewing-Bui told this patient that they may have cancer. The Committee remarked that physicians must always be careful when giving news of a significant medical finding to a patient and/or their family, as there is always a degree of uncertainty about any medical finding. All nodules have a diagnosis, and in the Committee's view, if Dr. Ewing-Bui was going to provide such a diagnosis, he should have

considered its accuracy, phrased it in a manner that left room for alternative considerations, and explained that further testing would be needed to confirm the diagnosis. The Committee also questioned what Dr. Ewing-Bui would have recommended if the patient's family member had not directed him to look at the 2016 CT scan, and/or if there had been no earlier CT scan to confirm that the nodule present on the 2017 CT scan was likely not malignant.

Finally, the Committee was concerned about Dr. Ewing-Bui's response to the College and his unusual degree of certainty about the accuracy of his powers of observation regarding lung scarring and acid reflux disease, and the way he cast aspersions on radiologists, ER doctors and his thoracic surgery colleague who disagreed with his opinion. The Committee noted that the College demands a higher standard of behaviour of its members, and in this instance Dr. Ewing-Bui had not met that expectation.