

SUMMARY

Dr. Nestor Do Padre Fernandez (CPSO# 30845)

1. Disposition

On May 4, 2016, the Inquiries, Complaints and Reports Committee (“the Committee”) required Dr. Fernandez, a family physician, to appear before a panel of the Committee to be cautioned with respect to failing to provide medical records as requested in a timely manner despite the fact that the Committee has expressed concern about this issue several times.

The Committee also ordered Dr. Fernandez to complete a specified continuing education and remediation program (“SCERP”). The SCERP requires Dr. Fernandez to:

- Attend and successfully complete the next available session of the following courses:
 - The Ontario Medical Association’s Crucial Conversations Course, and Crucial Accountability Course
 - The Canadian Medical Association’s Practice Management online modules
- Engage in focused educational sessions with a clinical supervisor acceptable to the College for six months, focusing on office management that meets the needs of patients and is compliant with the standard of practise.
- Undergo a reassessment with an assessor that is selected by the College approximately six months following the completion of the education program

2. Introduction

A patient’s lawyer complained to the College that Dr. Fernandez failed to provide a copy of the patient’s medical records, despite four written requests between January and November 2015, and failed to return telephone calls in November 2015.

Dr. Fernandez apologized, but noted that neither he nor any of his staff have any record or recollection of receiving any faxes or telephone calls from the patient’s lawyer or anyone else in the lawyer’s office since they responded to a request for records in March 2015. He advised that he has specific systems in place to deal with lawyers’ requests (which he outlined in his

response), and stated that he found it highly unusual that so many letters would go unnoticed (including a letter threatening to report him to the College).

3. Committee Process

A 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 under "Policies & Publications."

4. Committee's Analysis

The Committee could not understand how the patient's lawyer's multiple letters between September and November 2015 were not noticed, or how the patient's lawyer's telephone calls of November 5, 6, and 24, 2015 were not returned, despite the meticulous administrative procedures that Dr. Fernandez states he has in place in his practice.

The Committee noted that in 2002, Dr. Fernandez received a caution in person regarding his failure to provide a timely response to requests for information from a third party; and that in 2011, Dr. Fernandez received two more cautions in person for the very same issue, and was also directed to complete a remediation program regarding third party reporting.

From the Committee's perspective, given that this is yet another complaint about Dr. Fernandez's failure to provide a timely response to requests for information from a third party, it is clear that despite how efficient Dr. Fernandez's office is in theory, something is not working. Dr. Fernandez continues to display poor office management despite several previous interventions by the College.