

SUMMARY

DR. DAVID GERBER (CPSO# 74111)

1. Disposition

On April 13, 2018, the Inquiries, Complaints and Reports Committee (the Committee) required obstetrician and gynecologist Dr. Gerber to appear before a panel of the Committee to be cautioned with respect to his communications and being sensitive to patient discomfort during examinations, and to provide a written report reflecting on the remedial efforts he has undertaken in the past and what he is going to do in the future to avoid similar complaints.

2. Introduction

A patient complained to the College about Dr. Gerber's care and behaviour during an endocervical procedure. Specifically, she was concerned that Dr. Gerber failed to obtain informed consent to perform the procedure, failed to administer a local analgesia or anaesthetic or stop the procedure/address her complaint of pain, performed a forceful transvaginal ultrasound resulting in cervical inflammation, and discharged her without providing instructions regarding what to expect post-procedure.

Dr. Gerber stated that he had an informed consent discussion with the patient, and that he had no recollection or documentation of the patient experiencing an unusual level of discomfort during the examinations/procedures he performed. He stated that he would have addressed any pain or discomfort had the patient voiced concerns, and would have stopped the procedure if necessary. Dr. Gerber explained that it is not standard to administer a local anesthetic for procedures of the nature performed in this case, and he stated that he did advise the patient of possible light bleeding and cramping post-procedure.

3. Committee Process

An Obstetrical 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 noted that while there was conflicting information from the parties about what transpired, and a misunderstanding on the patient's part regarding the actual examination/procedures performed (which raised questions about the adequacy and extent of the consent discussion that Dr. Gerber claimed to have engaged in with the patient), it was evident from the patient's communications that she was traumatized by the examinations Dr. Gerber performed during this visit.

The Committee noted that Dr. Gerber has been the subject of several previous complaints to the College raising issues about his communications and painful examinations, and has received coaching to address his communications (pursuant to a specified continuing education and remediation program directed in one complaint) and was also cautioned in writing about ensuring proper communication with patients, including properly explaining the procedures to be performed. The Committee was concerned that despite his previous involvement with the College on these issues, and attempts at remediation, Dr. Gerber was once more the subject of a complaint raising similar concerns. The Committee was of the view that it was therefore appropriate to caution Dr. Gerber, as set out above.

In terms of Dr. Gerber's failure to administer an anaesthetic, the Committee acknowledged that it is not normal practice to administer a local analgesia or anaesthetic for the types of procedures that the patient underwent during her visit.

As for post-procedure instructions, the Committee noted that it had conflicting information from the parties on this point, but stated that given the nature of the examinations/procedures performed on the date in issue, the Committee would not have expected Dr. Gerber to have provided any specific post-procedure instructions, as no such instructions would be necessary.