

SUMMARY

DR. MICHAEL PETERSON (CPSO# 85002)

1. Disposition

On October 5, 2016, the Inquiries, Complaints and Reports Committee (“the Committee”) ordered Dr. Peterson (Family Medicine) to appear before a panel of the Committee to be cautioned with respect to the inappropriate advertising and conflict of interest evident in its investigation of this complaint.

2. Introduction

A representative of a medical facility complained to the College that Dr. Peterson, in his association with the London Sleep Apnea and Holder Clinic (LSAHC), may be engaged in a conflict of interest by offering an apparent referral fee of \$50 to physicians ordering Holter Monitor studies from LSAHC in his internet advertisements and facsimile transmissions to area physicians.

Dr. Peterson responded that he owns and operates LSAHC through a corporation, and that he approves all advertisements for LSAHC. He advised that before advertising the model for services in issue here, he reviewed the College’s website and searched for relevant policies, statements or guidance. He stated that not coming across any policies that appeared to be on point, he believed that his approach to advertising for the model used was permitted. Dr. Peterson advised that since receiving the complaint, he has reviewed the conflict of interest and advertising regulations under the *Medicine Act, 1991* (Ontario Regulation 114/94 made under the *Medicine Act, 1991*, Part II [Advertising] and Part IV [Conflicts of Interest]). He noted that he was not previously aware that he was doing anything contravening a regulation, law, or policy and he would not have done this if he was aware of or believed he was doing anything contravening a regulation, law, or policy. Dr. Peterson stated that he is now taking steps to revise his practice and ensure any future advertising and service delivery is done in a manner consistent with the relevant regulations

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.cpsso.on.ca, under the heading "Policies & Publications."

4. Committee's Analysis

The Committee expressed concern that the advertisement from LSAHC could be seen as inducing other physicians to be in a conflict of interest position. Specifically, the Committee's concern was that Dr. Peterson, through the advertisement for LSAHC, was inducing other physicians to order tests that might not be necessary, and to order that the test be analyzed by a certain facility (LSAHC, rather than, say, a cardiologist), because of the incentive of financial gain (in the form of the \$50 fee LSAHC was offering per referral). In other words, the Committee was concerned that the advertisement in question induced other physicians to make decisions that were motivated by a consideration other than simply the best interests of the patient.

The Committee was also concerned that Dr. Peterson's advertising breached the advertising regulations under Part II of Ontario Regulation 114/94 made under the *Medicine Act, 1991*, as, in the Committee's view, it was undignified and not in good taste. The purpose of the advertisement was to generate business for LSAHC by offering an inappropriate inducement to colleagues, as opposed to promoting public health and well-being, and thus did not accord with the principle purpose of maintaining a high standard of professionalism (as opposed to commercialism).

In the Committee's view, the regulations pertaining to conflict of interest and advertising under the *Medicine Act, 1991* are clear and Dr. Peterson's conduct was clearly prohibited. Dr. Peterson is expected to know, and make himself aware of, applicable rules and regulations.

