

SUMMARY

Dr. Robert Notkin (CPSO# 57503)

1. Disposition

On March 14, 2016, the Inquiries, Complaints and Reports Committee (“the Committee”) required psychiatrist/forensic psychiatrist Dr. Notkin to appear before a panel of the Committee to be cautioned to ensure that he maintains the standards of the profession, as set out in the *Practice Guide: Medical Professionalism and College Policies*, in his policy and practice around client billing (for example, with respect to charging interest on overdue accounts, charging for missed appointments, etc.), and to ensure that he advises potential clients in advance of his fees. Before attending for the caution, Dr. Notkin is to review the College’s Policies #7-12, *Medical Expert: Reports and Testimony*, #2-12, *Third Party Reports: Reports by Treating Physicians and Independent Medical Examiners*, #3-10, *Block Fees and Uninsured Services*, and Ontario Regulation 856/93, to ensure that his practice and policies respecting billing are in compliance with these.

2. Introduction

A client complained to the College that Dr. Notkin had acted unprofessionally with respect to conduct and billing of a psychiatric Independent Medical Examination (IME). She retained Dr. Notkin to undertake the IME in the context of family litigation. She asserted that Dr. Notkin did not advise her until months after she retained him that he charged what she termed “excessive and aggressive” cancellation fees and that he charged 1.5% interest per month on any outstanding balance. She asserted that Dr. Notkin refused to provide her or the respondent in the litigation (who was required by the court to pay half the costs of the IME) with an itemized invoice. She complained that Dr. Notkin wished to provide a report that would make the judge happy, rather than one that was impartial and objective. She further complained that Dr. Notkin did not respond to her correspondence in a timely manner.

Dr. Notkin responded that he had advised the client verbally of cancellation fees at the outset of his retainer. He stated that the question of interest does not arise until a balance remains

outstanding. He denied refusing to provide itemized invoices. His report was comprehensive, accurate and objective. He responded in a timely manner to the client's correspondence.

3. Committee Process

A Mental Health 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

Dr. Notkin had not advised the client in writing until months after she retained him that he charged cancellation fees. The Committee noted that the fees charged included penalties for appointment cancellations made with more than two weeks' notice, and included an even higher fee for cancellations made with less than two weeks' notice. This did not comply with the *Professional Misconduct Regulation* (Ontario Regulation 856/93 made under the *Medicine Act, 1991*), which sets out that a physician may not charge for services not performed, except where an appointment is cancelled less than 24 hours before the appointment time.

Dr. Notkin had not advised the client of interest charges until after the IME assessment appointments had occurred.

The *Professional Misconduct Regulation* lists as an act of professional misconduct:

24. Failing to itemize an account for professional services,

i. if requested to do so by the patient or the person or agency who is to pay, in whole or in part, for the services...

Dr. Notkin had failed to itemize an account for professional services when requested to do so by "the person...who is to pay...for the services."

The Committee was troubled in this case by Dr. Notkin's administrative approach to fees and billing, which appeared to be rigid and, not patient-oriented. The Committee was of the view that Dr. Notkin's administrative approach appeared to lack commitment to the core values of the profession of compassion, service, altruism and trustworthiness.

There was nothing in the information before the Committee that would lead it to believe that Dr. Notkin intended to slant his report one way or the other, or that he would do so to make the judge "happy."

The Committee was satisfied that Dr. Notkin was reasonably responsive in his communications with the client.

The Committee therefore required Dr. Notkin to attend the College to be cautioned in this matter, and to review the regulation and policies as set out above.