

SUMMARY

DR. HENRY J. MOLLER (CPSO #70658)

1. Disposition

On January 15, 2018, the Inquiries, Complaints and Reports Committee (the Committee) required psychiatrist Dr. Moller to appear before a panel of the Committee to be cautioned with respect to adhering to the Advertising Regulation and maintaining appropriate boundaries. In addition, the Committee ordered Dr. Moller to complete a specified continuing education and remediation program (SCERP). The SCERP requires Dr. Moller to:

- Attend and successfully complete the next available session of the Understanding Boundaries in Managing the Risks Inherent in the Doctor-Patient Relationship course, offered through Western University
- Review the following College policies and resources:
 - Up to Date – Clinical Assessment of Substance Abuse Disorders
 - *Marijuana for Medical Purposes* (policy #8-16)
 - *Prescribing Drugs* (policy #7-16)
 - Up to Date – Overview of Psychotherapies (with a focus on transference and countertransference)
 - The Practice Guide – Medical Professionalism and College Policies – Principles of Practice and Duties of Physicians: Duties To the Patient: Maintaining Confidentiality
- Review and complete a written summary of the following College policies and resources:
 - *Medical Records* (policy #4-12)
 - *Physician Behaviour in the Professional Environment* (policy #3-16)
 - *Maintaining Appropriate Boundaries and Preventing Sexual Abuse* (policy #4-08)
 - The Practice Guide: Medical Professionalism and College Policies

- Physician Advertising FAQs
(<http://www.cpso.on.ca/uploadedFiles/policies/legislation/Physician-Advertising-FAQs.pdf>)
- Undergo a reassessment of his practice by an assessor selected by the College approximately six months after completion of the remediation program.

2. Introduction

A patient complained to the College that Dr. Moller failed to maintain sufficient boundaries, and engaged in impropriety (in that he gossiped about the patient with another patient) and professional misconduct (in that he deleted billing records from the medical record). The patient complained that Dr. Moller hugged him and told another patient that he [the patient] was a sex addict.

Dr. Moller denied that he gossiped about the patient or indicated to anyone that the patient was a sex addict. He indicated that he tried to assist the patient with his art career and even hosted an art show at his clinic and invited the patient to be the lead artist in the show. Dr. Moller denied that he hugged the patient in any romantic, indiscreet or manipulative manner. He noted that there are no billings in the medical record for the time period the patient mentioned because he did not provide medical care to the patient during that period.

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

The Committee considered a report from an independent opinion (IO) provider who concluded that Dr. Moller's interaction with the patient crossed professional boundaries and left a "vulnerable patient more confused and disadvantaged."

The Committee agreed that Dr. Moller failed to maintain appropriate boundaries with the patient. It was concerning to the Committee that Dr. Moller did not have insight into the confusion that his actions might cause in the patient. Considering the patient's background of experiencing abuse and sexual harassment, it would have been prudent if Dr. Moller had been aware of the possibility that the patient might have perceived his conduct as exploitative of him and a serious boundary transgression. In fact, the patient repeatedly indicated that he perceived a sexual component to Dr. Moller's actions.

With regard to the patient's concern that Dr. Moller called him a sex addict in front of another patient, the Committee noted that Dr. Moller denied making this comment and asked his other patients who exhibited art with the patient and several colleagues to provide testimonials to the College in regard to this incident. The Committee considered it inappropriate for Dr. Moller to have discussed the complaint with his patients or colleagues in a fashion that may have exposed the patient's concerns.

The Committee could find no information to support the patient's concern that Dr. Moller had billed for therapy sessions with him and then deleted the records. The Committee took no action on this aspect of the complaint.

In addition to the concerns raised by the patient, the IO provider and the Committee identified additional concerns about Dr. Moller's practice. For example, the Committee found Dr. Moller's documentation to be illegible and lacking in details about symptoms or a diagnosis, or any indication of a mental status examination or elaboration of the types of concerns that would typically arise in notes in light of the medications Dr. Moller prescribed to the patient. The

Committee also found that Dr. Moller failed to document that he was monitoring the patient, who had a history of substance abuse, in light of the many medications he was prescribing to him.

In addition, the Committee was concerned by the indication that Dr. Moller's diagnosis of the patient was "workplace stress," which is not a complete diagnosis, and that he had failed to detect the possibility that the patient had an underlying psychotic disorder.

Lastly, the Committee noted that the web site for Dr. Moller's clinic offered patient testimonials and superlatives and also advertised products, therapies and services. *Ontario Regulation 114/94*, which defines the rules about physician advertising, does not permit advertisements to contain testimonials or reference to specific drugs or equipment, nor does it permit physicians to cause themselves to be associated with the advertising of products or services.

In light of all the above, the Committee was of the view that the two-fold disposition set out above was required to address the Committee's concerns with Dr. Moller's practice.