

SUMMARY

DR. ALI HAZRATI (CPSO# 83925)

1. Disposition

On September 15, 2017, the Inquiries, Complaints and Reports Committee (“the Committee”) ordered general surgeon and family physician Dr. Hazrati to appear before a panel of the Committee to be cautioned with respect to obtaining and documenting informed consent.

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

- attend and successfully complete the next available e-learning module on Informed Consent, offered by the Canadian Medical Protective Association, or an alternate course provider indicated by the College; and
- review the College policy on *Consent to Treatment*, and submit a written summary, with respect to obtaining appropriate consent and alleviating discomfort in performing perianal procedures, how the policy is applicable to Dr. Hazrati's situation as well as how Dr. Hazrati has made, or plans to make, changes to his practice.

2. Introduction

A family member of the patient complained to the College about an examination and procedure conducted by Dr. Hazrati. The family member was concerned that Dr. Hazrati failed to obtain consent or explain the procedure prior to using an anal retractor, performed a fistula probe without anaesthesia, used force when doing the anal examination and abscess probe, and caused Patient A to experience excessive pain and bleeding and may have perforated the rectum.

Dr. Hazrati responded that an anal examination does not require written consent. Patient A and the family provided tacit consent by positioning Patient A in proctology position, in the

examination room. Probing the fistula tract does not require anesthesia, if the probe can be easily inserted inside the fistula tract. He gently inserted the probe. The bleeding and discomfort to Patient A was minimal and to be expected from such a procedure.

3. Committee Process

A Surgical 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 found that while formal written consent is not required for a rectal examination, verbal consent is certainly required. It is unclear whether Dr. Hazrati obtained this from either Patient A or the family member present, or what, if anything, Dr. Hazrati communicated to them regarding the examination, given he suggests in his response that he assumed he had consent based on Patient A's position. Even if it is assumed that Dr. Hazrati had consent to complete the rectal examination, he should have obtained and documented consent prior to conducting a proctoscopy and/or fistula probing.

As noted in the College policy on *Consent to Treatment*:

"...Although the Health Care Consent Act (HCCA) states that consent to treatment may be express or implied, the College strongly advises physicians to obtain express consent, particularly when the treatment is likely to be more than mildly painful, carries appreciable risk, will result in ablation of a bodily function, is a surgical procedure or an invasive investigative procedure, or will lead to significant changes in consciousness.

A legible, understandable and contemporaneous note in the patient's record regarding consent to treatment is the best evidence a physician has to demonstrate that the requirements of the HCCA have been satisfied.

When a treatment is likely to be more than mildly painful, carries appreciable risk, will result in ablation of a bodily function, is a surgical procedure or an invasive investigative procedure, or will lead to significant changes in consciousness, the importance of documentation increases. As such, in these circumstances, the College requires physicians to document in the patient's record information regarding consent to treatment."

The Committee also noted that Dr. Hazrati conducted the proctoscopy and the probing of the possible fistula site without anesthetic. Proctoscopy and probing of a fistula can be uncomfortable, and particularly so when the patient is an adolescent, as was the case here. Most physicians complete these procedures with an anesthetic, and if one is not going to use an anesthetic, a physician must obtain consent and explain the procedures will be more painful if no anesthetic is used. In the Committee's view, Dr. Hazrati should have offered the option to complete the procedures with an anesthetic, explained the risks and benefits to proceeding without one, and documented the consent discussion in the record. The Committee also observed that probing a fistula may take time, and often requires other modalities, such as injection of methylene blue dye into the tract first. Dr. Hazrati should have explained all of this to Patient A and the family member who was present, and documented the discussion in the record.

The Committee is unable to know if Dr. Hazrati used excessive force, perforated the rectum, and/or otherwise caused excessive bleeding in this case. Some bleeding is a known risk of the procedures. The Committee's main concern was that Dr. Hazrati failed to document that he obtained informed consent for these invasive investigative procedures or that he explained the risks and benefits of them, including that the procedures may be done with anesthetic.

The Committee's concerns were heightened by Dr. Hazrati's history of College investigations and/or complaints, which raised similar issues with communications and/or consent.

Dr. Hazrati's response to the College, in which he stated tacit consent was sufficient, also suggested to the Committee that Dr. Hazrati lacks insight into the deficiencies in his communications and the consent process that arose in this case.