

SUMMARY

Dr. Brian Clare Bailey (CPSO# 21879)

1. Disposition

On May 4, 2016 the Inquiries, Complaints and Reports Committee (“the ICR Committee”) ordered Dr. Bailey, a general practitioner who practises psychotherapy, to complete a specified continuing education and remediation program (“SCERP”). The SCERP requires Dr. Bailey to:

- Successfully complete the following courses:
 - a medical record-keeping course, and the Canadian Medical Protective Association’s (CMPA) e-modules on medical record keeping;
 - a boundaries course, and the CMPA module on Privacy and Confidentiality
- Review and provide a written summary of the College’s policies on Complementary/Alternative Medicine, Telemedicine, Consent to Treatment, Confidentiality of Personal Health Information, Maintaining Boundaries and Preventing Sexual Abuse and Medical Records; the CMPA Good Practice Guide, section on “e-communication”; and Ontario advertising regulation (Ontario Regulation. 144/94)
- Engage in focused educational sessions with a clinical supervisor acceptable to the College for a period of six months (including discussion of: the use of accepted diagnostic classification, appropriate utilization of acupuncture as a complementary approach; appropriate size and composition of group therapy sessions; use of professional language; use of telemedicine and electronic media for communication, understanding boundary issues, informed consent, and confidentiality requirements; compliance with advertising regulation and avoiding conflicts of interest; and appropriate medical record keeping)
- Undergo a reassessment, with an assessor selected by the College approximately six months following the completion of the education plan.

2. Introduction

The College's Quality Assurance Committee referred Dr. Bailey to the ICR Committee because of its concerns with Dr. Bailey's practice. The ICR Committee therefore approved the Registrar's appointment of investigators to conduct a broad review of Dr. Bailey's practice.

3. Committee Process

As part of this investigation, the Registrar appointed a Medical Inspector ("MI") to review a number of Dr. Bailey's patient charts, interview Dr. Bailey, and subsequently submit a written report.

The MI opined that Dr. Bailey demonstrated a lack of skill, knowledge, or judgement in a majority of the charts reviewed, but that his practice is not likely to expose his patients to a risk of either harm or injury. The MI felt that Dr. Bailey possesses some commendable skills as a therapist; but shows a lack of knowledge and judgement in his provision of psychotherapy, relevant policies, boundaries, and his medical record keeping.

Dr. Bailey maintained that the MI did not understand his work and could not assess him fairly. He offered explanations regarding his practices (for example, seeing couples for therapy, his involvement of young patients in group therapy sessions, his use of emails) and noted that he offers transpersonal and mindfulness therapy, which differ from mainstream psychotherapy; and pointed out that psychotherapy is secondary to his acupuncture practice. He indicated that he did not believe the videos on his website were testimonials, but he did remove them. He disputed the MI's conclusion that there was missing information from patients' charts

The ICR Committee, consisting of public and physician members, met to review the relevant records and documents related to the complaint. The ICR 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, under "Policies & Publications."

4. Committee's Analysis

The ICR Committee found that Dr. Bailey's therapy does not conform to any standard of practice and shared many of the MI's concerns regarding Dr. Bailey's practice.

The ICR Committee felt that Dr. Bailey's statement that a patient can "'diagnose' [his/her] own personality" showed a lack of understanding regarding the difference between a patient's attribution of his/her symptoms and a physician's official diagnosis of a patient's medical condition.

The ICR Committee noted that, particularly with respect to his acupuncture practice, Dr. Bailey does not document whether the alternative therapy he provides is supported by conventional medicine, the rationale for it and its efficacy, how it compares to conventional medicine and information on comparable conventional options, which is required by the College's policy on *Complementary/Alternative Medicine*.

Also of concern to the ICR Committee was the fact that Dr. Bailey did not always document the details regarding group therapy (number of patients, the frequency of sessions or the place of therapy), and that he had more participants than are usually present in most types of group psychotherapy sessions (leading to questions as to whether there was sufficient time to address all of the patients' emotional concerns). Dr. Bailey also occasionally allowed minors to attend his adult group therapy sessions (which could prevent or hinder adult group members from discussing adult topics, or harm the minor by pre-maturely introducing him to adult topics), and allowed very close relatives to attend the same group therapy sessions (which can lead to complex family dynamics that would be hard for other group members to understand).

The ICR Committee noted that Dr. Bailey failed to obtain informed consent from patients for all treatment, including the use of email communication or telemedicine as a method of treatment, contrary to the College's policy on *Consent to Treatment*. There is also a concern that Dr. Bailey may have breached the confidentiality of several patients by sending emails which contained personal health information of individuals in the group to multiple patients.

The ICR Committee noted that Dr. Bailey made a number of excessively informal statements about patients, which it felt was completely inappropriate. It was concerned by Dr. Bailey's use of a "Coffee Club", in which one patient was used to recruit other patients through the creation of a group outside of the patient's treatment plan.

In terms of his advertising, the ICR Committee found that Dr. Bailey included videos on his website that constituted testimonials (which regulation does not allow), which could be accessed without a password. While Dr. Bailey indicated that he had removed the videos, the ICR Committee determined they are still searchable on the internet.

The ICR Committee was also concerned about Dr. Bailey's overall medical record-keeping, which does not comply with the College's policy on *Medical Records*. The records are largely illegible, and in some cases, lack the necessary level of detail (for example, the name/address of the primary care physician, the date of each patient encounter, medical histories and examinations, patients' medication dosages, a record of his professional advice, referrals, reports from other specialists, etc.)