



Legal and Ethical Responsibilities in Medical Practice: CPSBC Perspectives

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Deputy Registrar

Complaints and Practice Investigations

The College of Physicians and Surgeons of BC is located on the unceded and traditional territory of the Coast Salish peoples, including the territories of the xʷməθkwəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and Səlilwətaʔ/Selilwitulh (Tsleil-Waututh) Nations.

We acknowledge that all of you attending today remotely are located on Indigenous territories across the province.

Disclosures

- **None to declare**
- **The College has provided support for my time as well as the input of our communications and public affairs department**

Objectives

- **Review common medical-legal risks for physicians, including ethical challenges**
- **Describe common pitfalls in documentation**
- **Review specific documentation issues**
- **Review the role and scope of the College in regulation and practice**
- **Discuss resources available to registrants from the College**

About the College

- **Administer the *Health Professions Act*, and its regulations and Bylaws**
- **Duty to act in the public interest**
- **Regulate the practice of medicine at the individual practitioner level, not the system**
- **Governed by a 15-member board; 10 are peer-elected physicians and five are public members appointed by the Ministry of Health**
- **The College is not the government, but is accountable to it**
- **The College does not advocate for the profession**
- **Operations include 138 employees and an annual budget of \$28 million**

Mindful of our times

- **COVID-19**
- **Opioid pandemic**
- **Cultural safety and humility**
- **Virtual care**
- **Health Human Resources**
- **Physician Burnout**
- **Modernization of health regulation in British Columbia**
- **Humanizing the complaints process**



Serious Roles

- **Registration**
- **Complaints**
- **Practice investigations (competence, conduct)**
- **Accreditation**



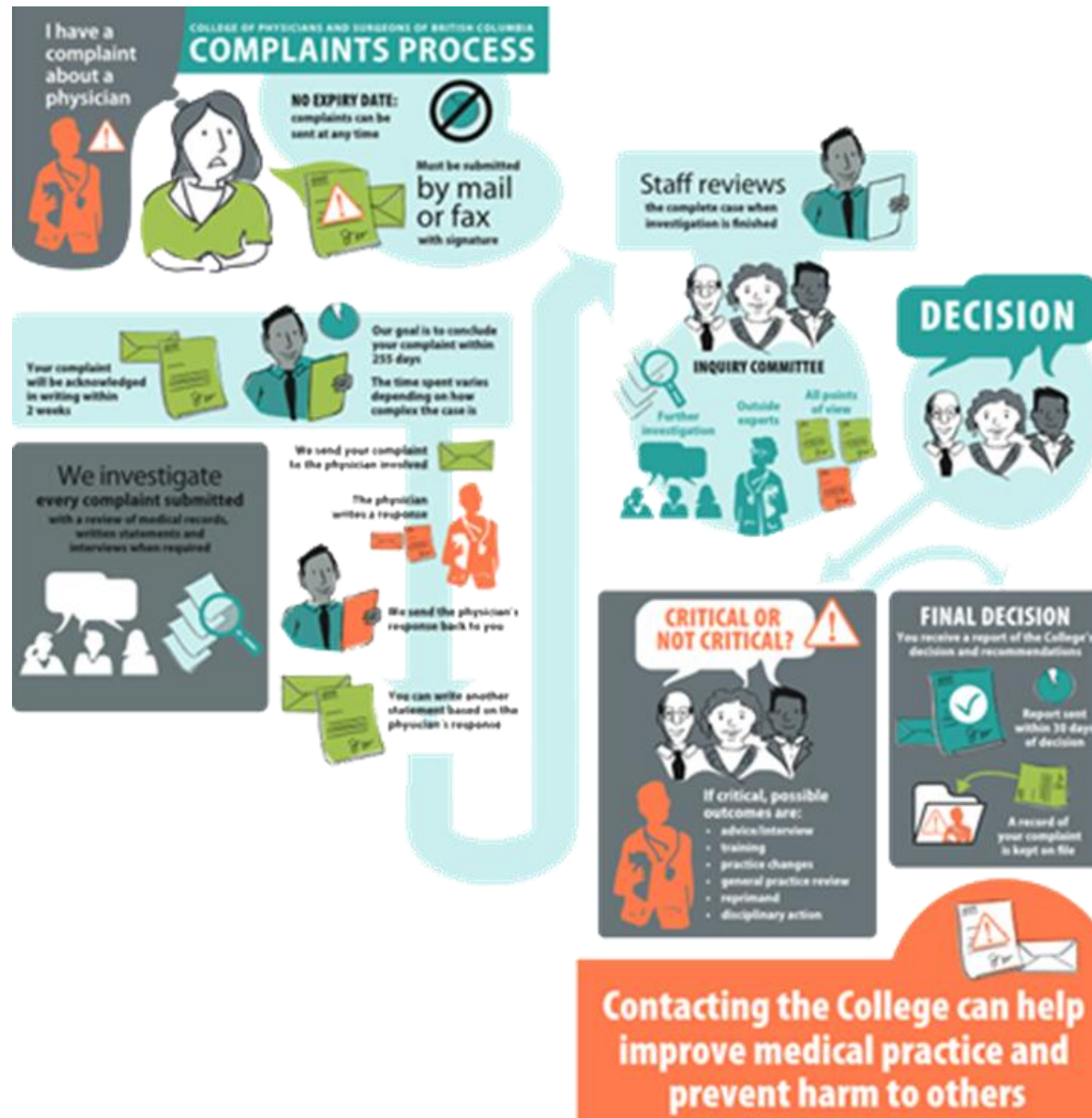
Supportive Roles

- **Quality assurance**
 - Peer Practice Assessment Program
 - Prescription Review Program
- **Physician health**
- **Registrant support Coaches**
- **Engagement**



Complaints

- **~ 1,300/year are opened and closed**
 - ~ 45% clinical, 45% conduct, 4% boundary, 6% "other"
- **Staff, Inquiry Committee, process, critical vs. not**
 - ~ 90% will not result in reprimand or other forms of discipline; managed by staff with oversight from the Inquiry Committee
 - ~10% before the Inquiry Committee panels
- **Remediation >> discipline**



Your role in the process

- **Don't panic**
- **You are expected to respond in the timelines provided; ask about extensions**
- **You are encouraged to speak with CMPA and are reminded of the role of the Physician Health Program of BC**
- **Truth >> "alternative facts"**
- **What to say to whom and when**

Standards & Guidelines

- **Practising in BC is a privilege**
- **Directly tied to your agreement to follow the standards of the College fully**
- **Multiple opportunities for public and profession to offer input and guidance**
- **Living documents**

Common challenges

- A meet and greet leads you to decide the fit is not right
- Patient respectfully disagrees with your recommended treatment
- Patient seeking service that goes against your moral compass
- Patient also working with a naturopath
- Patient has a primary care provider already and is asking for...



Access

- **Decisions to accept or refuse new patients must be made in good faith**
- **Defined scope of practice must not be used as a means of unreasonably refusing patients with complex health needs**
- **Conscientious objection**
- **Meet and greet**



Advertising

- **You are fully responsible**
- **Credentials (family physician practising in women's health; certified psychiatrist practising in geriatric mental health)**
- **Factual**
- **No prizes, discounts, inducements**
- **Consent for use of images**
- **Acknowledge if images not of your patients**
- **Explicit statement of what is publicly funded via MSP**

Care Coverage Outside Office Hourse

- Legal principal of common-law duty of care
- Must have on-call arrangements in place
- Patients must be aware
- Teams must pick up where locum left off
- Absences must be communicated
- 811 has an important role but...
- Extraordinary shortages must be communicated to the College and to affected patients



Common challenges

- **Patient bullies your MOA in person, via phone messages and on public web sites**
- **Patient brings you a list of the many errors they believe you have made in their care**
- **Never follows your advice**
- **Independently arranges for multiple second opinions about your care**
- **Asks for narcotics at every visit**



Terminating the Relationship

- **Fiduciary relationship – based on honesty, respect and trust**
- **Prioritize patient's care and well-being, respect autonomy**
- **If the relationship cannot be maintained, it can be ended**
- **Abusive or intimidating patient, declares non-confidence, poses risk of harm**
- **Be mindful of real/perceived discrimination, fear complexity, or parts of shared decision-making you may not support/like**
- **Written notification, clear documentation, handover of records, time frame and assistance to find another physician, interim emergency services**

Common challenges

- Patient invites you to invest in construction project
- Patient is unemployed and you need gardening/babysitting done
- Patient gives you a cake, knit sweater, car
- You run into a former patient and strike up a relationship
- A friend asks you to be their physician



Sexual abuse of patients

- **Unacceptable in the patient-physician relationship**
- **Boundary issues fully investigated by team specialized in trauma-informed investigation**
- **Explicit guidance in standard that covers:**
 - **interview questions**
 - **physician examination procedures**
 - **chaperones**
- **Boundaries - can we say enough?**

Sensitive Examinations

- **Consent**
- **Privacy** – be explicit and clear
- **Gowning and draping**
- **Chaperone**
- **Limit contact, assistance**
- **Monitor humour, word choice, stance**
- **Gloves**
- **Minors**

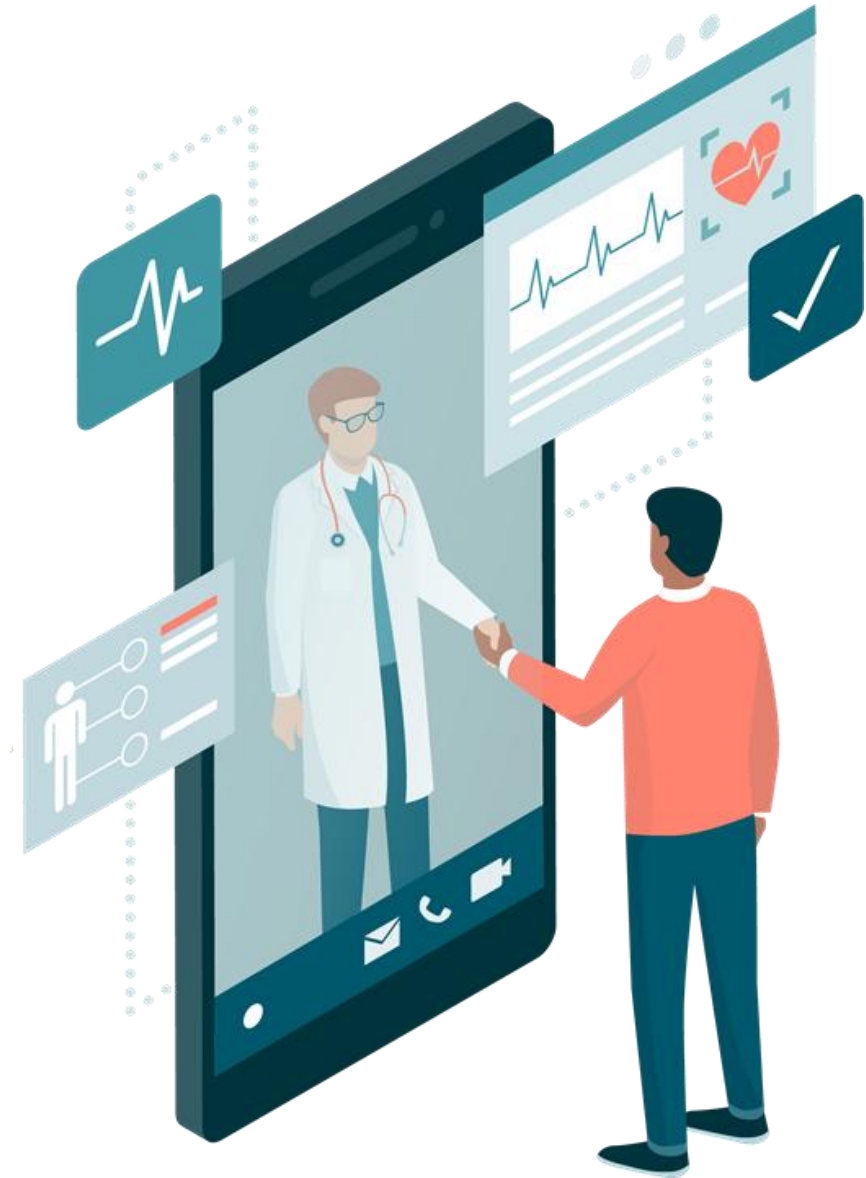


Common Challenges

- **Shift to virtual care**
- **Patient asks for renewal of multiple prescriptions as their physician is unavailable, including zopiclone, Concerta, and gabapentin**
- **Patient seeking medical cannabis to manage anxiety their regular physician has constantly ignored**
- **Patient expresses GI symptoms suggestive of mass, needs a physical examination**
- **Adolescent shows up with parent hovering in background and asks them to leave**

Virtual Care

- **The College expects practitioners to be trained and competent**
- **Identity of patient, and others, to be explicitly confirmed and documented**
- **Medium must align with need**
- **Must arrange physical examination if appropriate**
- **Opioids, psychotropics, cannabis**
- **All other expectations apply (referral, documentation, follow-up)**
- **Encouraged not to deskill yourselves**



Treating Self/Others Close to You

- **MSP will not pay for care delivered to:**
 - spouse
 - children (including stepchildren)
 - parents (including step, in-law)
 - grandparents
 - grandchildren
 - siblings
- **spouses of any of these members**
- **No narcotics or psychotropics to themselves or family members**
- **Only treat if issue is minor or emergent and no other MD available**

Common Challenges

- You have an unwritten business arrangement with a group of peers
- They ask you to renegotiate your overhead and you decline
- You show up to work, locks have changed, they deny you access to records



Medical Records

- The HPA gives explicit direction as to the content of a **LEGIBLE** medical record (i.e., English, demographics, history, impression, treatment, follow-up)
- Further, HPA emphasizes separate record for narcotics, legibility, timeliness, inspection, storage (16 years) and disposition
- Emails, text messages are considered part of the record
- Before you create a record, you must sort out custody, confidentiality and enduring access
- Complex area - know before you start



Withdrawal of Service

- **Reference your contract**
- **If a group or department, stagger withdrawal**
- **Carefully take steps to mitigate impact of the withdrawal**
- **Consider the needs of the patient carefully**
- **Point person and process**
- **90-day written notice (may vary)**
- **Contingency plan for emergencies and unexpected complications**
- **Disputes, disagreements and flash-points**

Duty to Report

- **Duty to Report Guide**
- **Registrant under HPA - believe they are incompetent or suffering from physical/mental ailment, emotional disturbance or addiction that impairs ability to practice**
- **Terminates, revokes, suspends, dissolves a relationship**
- **Hospitalized registrant - psychiatric illness or addiction**
- **Sexual misconduct (abuse)**
- **Immunity**
- **Other statutes - child protection, some deaths, infectious disease, dangerous driving, MSP fraud, gunshots/stab wounds, transportation professions**

And so much more

- **Check the website**
- **Read the College Connector**
- **Be aware of the standards and guidelines**
- **Get involved**
- **Contact us with questions**
- **Thank you for your very good work**

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