



From the College

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This newsletter is forwarded to every licensed medical practitioner in the Province of Manitoba. Decisions of the College on matters of standards, amendments to regulations, by-laws, etc., are published in the newsletter. The College therefore expects that all practitioners shall be aware of these matters.

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The President's Message

On behalf of Council, I would like to take this opportunity to provide an update on current College activities.

The majority of our energies continue with the development of the provincial "Regulated Health Professions Act" as well as the federal "Labour Mobility - Agreement on Internal Trade".

The "Regulated Health Professions Act" will come into law in January 2011. The executive working group is completing its review of significant portions of this extensive legislation. We presented recommendations to Council in March. The most recent components to be reviewed included Standards, the Code of Ethics, as well as the "Blue Sky" group's final recommendations on "Classes of Registration" relating to qualifications and licensing. Council requested further review and feedback from the Executive Committee on the Code of Ethics and this has now been completed. It will go back to Council for final review later in the year. In the fall, our recommendations and review must be completed and returned back to government for their final review prior to enactment through the provincial legislature.

While this has been an extensive amount of work for Council and staff at the College, I believe that excellent work has been accomplished and hopefully will serve physicians and their patients well into the future.

Staff at the College have continued to work with FMRAC on the federal "Labour Mobility - Agreement on Internal Trade" (which has already come into law). Fortunately much work had previously been done by our "Blue Sky" working group in this area and philosophically the Executive and Council had supported expanding assessments of medical practitioners who apply for registration with less than the national standard for medical licensing. This earlier work has served us well as all of the provincial Colleges strive to come up with a more uniform national approach to licensing of this group of physicians.

The President and President Elect, as well as the Registrars will be attending the annual FMRAC meeting in June 2010 to learn more of the proposed national strategy to deal with physician mobility. Our Registrars are very involved in the proposed processes.

While reviewing Standards as well as the Code of Ethics, the Working Group discussed the issue of 24-hour call for patients extensively. This issue was reviewed previously at Council. Council has remained divided over making 24-hour call mandatory for all practising physicians. One issue is definitely clear and that is the issue of after hours critical result dissemination.

During recent discussions on the Code of Ethics, it was determined that physicians who do not participate in a 24-hour call schedule must leave their phone number with the local laboratory and x-ray facilities where they typically refer so that the lab has the ability to contact that physician, at home if necessary, with critical results. Having no one on-call, and no way of reaching the practitioner who ordered the tests with a critical result would certainly leave patients in jeopardy and is not acceptable. While this is fortunately a very infrequent occurrence, it is one that could have significant implications for patient care. Further information will follow in an upcoming newsletter on this item.

The next scheduled meeting of Council will be June 11, 2010 and hopefully by then the majority of the aforementioned work will be completed and approved by Council.

Enjoy the beautiful spring!

Dr. Kevin Saunders, President

Amendments to The Personal Health Information Act

The Personal Health Information Act (PHIA) provides individuals with the right to access their personal health information with limited exceptions and requires that trustees protect the confidentiality of the personal health information they maintain. On May 1, 2010 amendments to this Act came into force.

Among other things, the amendments will change the time limits for responding to requests for personal health information. In particular, requests for information about care currently being provided in community practice settings must be responded to as promptly as required in the circumstances but not later than 72 hours after receipt.

In addition, trustees will be required to inform patients in writing by way of a sign, poster, brochure or similar means of their right to examine and receive a copy of their personal health information, and how to exercise that right. The notice must also state that an individual has a right to authorize another person to exercise their access rights.

Manitoba Health and the Manitoba Ombudsman have developed a brochure for use by trustees in order to meet the notice requirements. Health professionals should contact the Legislative Unit at Manitoba Health, 788-6612, to request copies of the brochure to make available to their patients/clients.

For more information on these, and other amendments coming live on May 1, 2010, a document entitled "A Brief Summary of the Amendments to The Personal Health Information Act" is available on-line at <http://www.gov.mb.ca/health/phia/brief.html>.

College Election Results

The following members were (re)elected to Council in the recent elections for a four year term expiring June 2014:

Central Region:
Dr. Enok Persson (re-elected)

Interlake Region:
Dr. Dan Lindsay (re-elected)

Northman Region:
Dr. Hisham Tassi (re-elected)

Parkland Region:
Dr. Jacobi Elliott (newly elected)

Winnipeg:
Dr. Margaret Burnett (re-elected)
Dr. Blair Henderson (newly elected)
Dr. Andrew MacDiarmid (re-elected)
Dr. Wayne Manishen (newly elected)
Dr. Rod Onotera (re-elected).

Congratulations to all!

Notes from the Registrar

As we have noted in previous newsletters, the new *Regulated Health Professions Act* is coming closer to being a reality in this province. This Act creates a single format for all the regulated health professions in the province of Manitoba. There are many parts of it which are new and which create significant work for us in the College offices. In particular, all the Regulations relating to qualifications must be rewritten and approved by government. This kind of overview has not occurred in at least 25 years.

Your Council has set up a Blue Sky Working Group [for qualifications] and a President's Working Group [for the other areas of the Act] to advise Council on these new processes.

At each quarterly meeting, Council discusses and approves or modifies major areas for the future governance of the profession. The way in which we do business is certainly changing.

▪ *Agreement on Internal Trade (Labour Mobility)*

The Labour Mobility Act has now been passed and is law in Manitoba. In addition, the Agreement is now being enforced nationally. This means that an individual who is fully registered and licensed in one province must be acceptable for registration and licensing in any other Canadian province. The appropriate documentation, such as a Certificate of Professional Conduct, etc., must still be satisfactory. This greatly eases movement of physicians from one province to another.

The Federation of Medical Regulatory Authorities of Canada (FMRAC), the national body for all Colleges of Physicians and Surgeons, has been coordinating a national approach to the issues around this registration. There are three working groups involved. The first addresses the Certificate of Professional Conduct. Ms Doreen Kelly, Assistant Registrar and Legal Counsel, participates in that one. The other two are on Registration and Assessment. Dr. Anna Ziomek, Assistant Registrar for Qualifications, participates in those two working groups. It is hoped that over the next 12-18 months, a common approach will be adopted throughout the country, both for those on full and those on provisional (conditional) registration. There will be intense discussion of this prior to the national FMRAC meeting in June 2010. The newsletter following that and the Council Annual General Meeting on June 11, 2010, will contain information from those two events.

▪ *Presentation to Doctors Manitoba*

Following the March Council Meeting, I presented to the Board of Doctors Manitoba on the Regulated Health Professions Act items that had been approved by Council at both the December and March meetings.

▪ *Continuing Competence*

(a) Continuing Professional Development – As you have heard by now, all physicians in Manitoba will be responsible for participating in one of the two national CPD programs commencing September 1, 2010. More specific information will be forwarded to members later this year. On April 21 and 22, Dr. Bernard Marlow, of the College of Family Physicians of Canada, spoke in Selkirk on the morning of April 21st, in Brandon on the evening of April 21st, at the Annual Scientific Assembly of the College of Family Physicians of Canada at noon on

April 22nd, and in Boundary Trails in the evening of April 22nd. Dr. Craig Campbell, from the Royal College of Physicians and Surgeons of Canada, will be in Manitoba at the beginning of June. He will present to Medicine Grand Rounds and Psychiatry Rounds on the morning of June 1st. He will speak in Theatre A at the end of the day on June 1st and to combined Anaesthesia, Surgery and Obstetrics Rounds on the morning of June 2nd. Times and locations are available on the College website. Please consider attending a session appropriate for your practice!

▪ **Highlights from the March Council Meeting**

(i) Council heard a presentation from Ms Nicole Chammartin, Executive Director of the Canadian Mental Health Association (Winnipeg). This is the 25th year for the Winnipeg chapter of the CMHA. We encourage all physicians to review the issues and consider referring patients to this organization. Their website is www.cmhawpg.mb.ca.

(ii) Accredited Facilities Bylaw – Under the RHPA, the Program Review Committee will be responsible for accrediting and reviewing facilities. The non-hospital medical/surgical facilities presently require formal inspection and re-accreditation every five years. This process will now fall under Program Review.

(iii) The following items were also approved:

- A request to Government that Bylaw #5 on Prescribing Practices is retained in the new legislation.

- That Continuing Professional Development is required for Physician Assistants and Clinical Assistants.

- The definition for Scope of Practice for the practice of medicine as follows: “The practice of medicine is the application of medical knowledge, skill and judgment to assess, diagnose and manage any physical, mental or psychosocial condition of an individual or group of individuals at any stage of the biological life cycle, including the prenatal and post-mortem periods.”

- A request that Bone Densitometry Testing be made a reserved act.

- Transplant of Organs and Tissues: Council asked that transplant harvest surgeons be permitted to function when coming to Manitoba without full licensure, provided that the surgeon is approved by the Chair of the Department of Surgery for a specific purpose and has been given privileges at a specific facility in the Regional Health Authority, and that the Department of Surgery maintains the records of these privileges.

- Renewal Requirements Initial Registration Disclosure Requirements: Some additions to this list were approved in line with the approval of renewal disclosure requirements at the December Council meeting.

- A request to Manitoba Health for a regulation requiring certain information to be kept on the registers.

- Code of Ethics: Council reviewed the Manitoba Code of Conduct and the CMA’s Code of Ethics, and approved suggestions for a new CPSM Code of Ethics. The final document will be made available on the website in the next few months for comment by members.

At the June meeting, it is intended that Council will review and approve a new document on Standards of Practice, the Classes of Registration and Standards of Practice for MANQAP. Information will be posted as it becomes available.

New Dean of Medicine

Congratulations to Dr. Brian Postl who has been selected as the next Dean, Faculty of Medicine, University of Manitoba. He will begin his term in July 2010.

Physician Profile Info – Mandatory Reporting

Please note that physicians **MUST** report immediately to the College if they have had a medical malpractice court judgment issued against them by a court in Canada or if they have been convicted of any offence under the Criminal Code, the Controlled Drugs and Substances Act or the Food and Drugs Act.

If you have any questions, please contact the Registrar.

New Canadian Guideline for Chronic Non-Cancer Pain

Canadian physicians now have access to more comprehensive and current information regarding the use of opioids to safely and effectively treat patients with chronic non-cancer pain.

The *Canadian Guideline for Safe and Effective Use of Opioids for Chronic Non-Cancer Pain* is a national, evidence-based guideline that provides 24 practice recommendations to assist physicians who are initiating opioid therapy, conducting an opioid trial and/or monitoring long-term opioid therapy. Practice tools and additional resources are also available to support opioid prescribing practices for this specific patient group.

Medical Regulatory boards across Canada, were involved in the development of the new guideline. The project was led by the National Opioid Use Guideline Group (NOUGG) and supported by a research team and a national advisory panel of pain specialists, family physicians, addiction experts, pharmacists, academics nurses and patient representatives.

The resulting guideline is not proposed as a policy or standard of practice. It is intended to give Canadian physicians guidance based on the best available information, research and consensus of opinion.

The initial guideline announcement was made by the Canadian Medical Association Journal in early May, and the document is now being rolled out across the country. The complete guideline is available in English from the [Michael G. DeGroote National Pain Centre](http://www.mcmaster.ca/~mcmaster/mcmaster/paincentre/) at McMaster University. French versions of the guideline will be posted as soon as possible.

Report of Disciplinary Hearing

**INQUIRY: IC1246 & IC1284
DR. ANTHONY HLYNKA**

On February 25, 2010, a hearing was convened before an Inquiry Panel (the Panel) of the College of Physicians & Surgeons of Manitoba (the College), for the purpose of conducting an Inquiry pursuant to Part X of *The Medical Act*, into charges against Dr. Hlynka, as set forth in an Amended Notice of Inquiry dated November 25, 2009.

The Amended Notice of Inquiry charged Dr. Hlynka with professional misconduct, with contravening By-Law No. 1 of the College, Articles 1, 2 and/or 15 of the Code of Conduct of the College, and Statement No. 805 of the College, and with displaying a lack of knowledge, or a lack of skill and judgment in the practice of medicine.

The hearing proceeded before the Panel on February 25, 2010, in the presence of Dr. Hlynka and his counsel, and in the presence of counsel for the College.

At the outset of the hearing, Dr. Hlynka entered a plea of guilty to the charges and acknowledged the truth of the allegations against him as set forth in paragraphs 1 through 10 inclusive of the Amended Notice of Inquiry. (A copy of paragraphs 1 to 10 is included below.)

Through his counsel, Dr. Hlynka also acknowledged and admitted that by virtue of the facts and matters set forth in paragraphs 1 through 10 inclusive of the Amended Notice of Inquiry he:

- i) was guilty of professional misconduct;
- ii) had contravened By-Law No. 1 of the College;
- iii) had contravened Articles 1, 2 and/or 15 of the Code of Conduct of the College;
- iv) had contravened Statement 805 of the College; and
- v) had displayed a lack of knowledge or a lack of skill and judgment in the practice of medicine.

The Panel reviewed and considered the following documents, which were filed with the Panel with the consent of Dr. Hlynka:

1. the Notice of Inquiry;
2. the Amended Notice of Inquiry;
3. the statement of the joint recommendation as to penalty, with a calculation of costs.

The Panel also reviewed and considered the following documents, which were introduced as evidence in the proceedings with the consent of Dr. Hlynka:

1. Statement of Agreed Facts;
2. Book of Documents;
3. Letter from Dr. X dated September 4, 2009.

The Panel also reviewed and considered:

1. Articles 1, 2 and 15 of the Code of Conduct of the College;
2. Statement 805 of the College;
3. excerpts from By-Law No. 1 respecting record keeping requirements consisting of:
 - a) Article 29, in effect from July 2005 to December 2008;
 - b) Article 24, in effect from December 2008 to the present.

Given all of the above-noted documents and evidence, and the guilty plea entered by Dr. Hlynka, the Panel

concluded that the charges of professional misconduct, of contravening By-Law No. 1 of the College, of contravening Article 1, 2 and/or 15 of the Code of Conduct of the College, of contravening Statement 805 of the College, and of displaying a lack of knowledge, or a lack of skill and judgment in the practice of medicine, had all been proven. The Panel also concluded that the joint recommendation of the College and Dr. Hlynka as to penalty ought to be accepted. The Panel's specific reasons are outlined below.

REASONS FOR DECISION

A paramount responsibility of the College is to protect the public interest. The College fulfills this responsibility by taking the necessary steps to maintain the high standards of practice and conduct of the profession, and by deterring poor practice and misconduct by its members. The College must demonstrate to the public that it is fulfilling its responsibility to regulate the profession and to discipline those members who transgress acceptable standards. Individual practitioners, to whom patients entrust their care, must demonstrate that they meet the standards of practice and conduct of the profession. Dr. Hlynka did not meet those standards in three broad categories:

1. Dr. Hlynka prescribed narcotic drugs that he knew were addicting, in a reckless manner. One of the purposes of his improper prescribing was to obtain a supply of narcotic drugs for his own use. He issued prescriptions to a significant number of patients and he exploited those patients to his own advantage. Recklessness was evident by the large quantity of drugs prescribed and the way in which he issued prescriptions. He issued prescriptions for Percocet or Oxycontin to four categories of people:

- i) patients he knew reasonably well, whom he would ask to fill prescriptions written by him in their names, and then to provide some or all of the narcotics to him;
- ii) people whom he had never met, or whom he had met, but had not assessed or examined to determine the medical necessity for the narcotics; in most instances, the narcotic prescriptions for those people were handed to a third party;
- iii) patients with whom he made arrangements whereby he would write prescriptions in their names, and he would receive some of the narcotics back from the patients;
- iv) patients for whom he would write prescriptions with no medical rationale, or an inadequate medical rationale, because he believed they were providing the narcotics to another patient of his, who in turn would provide some or all of the narcotics to him.

2. Dr. Hlynka failed to obtain a medical history or examine some of the patients in the above-noted categories before prescribing narcotics to them. In most cases, he falsified patients' medical records. His deceptions included:

- i) failing to record all of the prescriptions issued to the patient;
- ii) recording the prescription for the patient, although he knew the drugs would be given to himself by the patient;
- iii) recording the prescription as if it was provided for the use and benefit of the patient, when he knew or ought to have known it was for the use of other people;
- iv) removing a page of a patient's record and substituting another page in order to conceal the prescribing of the narcotic.

3. Dr. Hlynka misled and failed to fully cooperate with the College's investigation. He initially denied any of the

improper activities described above when interviewed by the Investigation Chair of the College. Later, in a subsequent interview by the Investigation Chair, he provided only one name of a patient who had asked for drugs for other people, thereby failing to identify all of the other patients for whom he had prescribed narcotics improperly.

The Panel concluded that there were both aggravating and mitigating factors present in Dr. Hlynka's conduct in relation to these matters. Aggravating factors included the following:

- i) the improper prescribing was done repeatedly over an extended period of time;
- ii) the improper prescribing involved multiple patients, many of whom were often innocent, vulnerable or subordinate;
- iii) Dr. Hlynka used elaborate means to hide his prescribing practices in the medical records.

Mitigating factors included the following:

- i) On the basis of chart reviews conducted by the College, it appears that Dr. Hlynka provided reasonable medical care to his patients who were not the recipients of his improper prescriptions of narcotics;
- ii) The opinion of Dr. X, who has been seeing Dr. Hlynka relating to opiate dependence, is that Dr. Hlynka's judgment relating to the prescribing of narcotic drugs was affected by his own addiction to those drugs.

When the Panel weighed the aggravating factors against the mitigating factors, in the context of the evidence outlined in the Agreed Statement of Facts, and the Book of Documents, and considered Dr. Hlynka's guilty plea to all of the charges outlined in the Amended Notice of Inquiry, the Panel was satisfied that the joint recommendation as to penalty represented an appropriate disposition of the matters set forth in the Amended Notice of Inquiry. The penalty as recommended adequately addresses the issues of specific deterrence of Dr. Hlynka, and of general deterrence. The penalty as recommended also properly addresses the issue of protecting the public interest and maintaining the high standards of practice and conduct of the profession.

For the reasons stated above, the Panel unanimously accepted the joint recommendation of Counsel for the College and Counsel for Dr. Hlynka that Dr. Hlynka's registration and licensure be revoked, that he pay to the College the costs of the College in the amount of \$32,501.44, and that there be a publication relating to these proceedings and of the decision of the Panel, which publication shall include Dr. Hlynka's name.

Paragraphs 1 to 10 of the Amended Notice of Inquiry are as follows:

1. You exploited some or all of the 25 patients for your personal advantage by involving the patients in your unethical prescribing practices, thereby breaching Article 2 of the Code of Conduct and/or committing acts of professional misconduct.
2. You issued prescriptions for narcotics in the name of some of 25 patients without any direct contact with the patients personally and without creating any medical record respecting the prescriptions, thereby breaching Statement 805 of the College, and/or breaching the medical record keeping requirements of By-Law No. 1 of the College in effect at the material time, and/or

committing acts of professional misconduct.

3. You issued narcotic prescriptions to some of 25 patients when there was no, or in the alternative, no adequate medical rationale for so doing in order to obtain narcotics for your own use, thereby breaching Article 1 and/or Article 15 of the Code of Conduct and/or committing acts of professional misconduct.
4. You issued prescriptions to some of 25 patients without:
 - a) taking an adequate history or conducting an adequate physical examination to evaluate the patient's medical condition and the appropriateness of that medication for the patient's condition, and/or
 - b) creating any medical record respecting the patient, thereby breaching Statement 805 of the College and/or breaching the record keeping requirements of By-Law No. 1 of the College in effect at the material time, and/or committing an act or acts of professional misconduct.
5. You provided narcotic prescriptions issued in the names of some of 25 patients to another of your patients without taking any or any adequate steps to protect against sale or abuse of the medication, thereby committing acts of professional misconduct.
6. When some of the patients in whose names you had issued prescriptions without any direct contact with the patients presented to you as a patient, you did not take any or any adequate steps to ascertain whether that patient was aware of the prescriptions you had issued in the patient's name, whether that patient had received the prescriptions or the medication from the third party to whom you gave the prescriptions, whether that patient had taken the medication and, if so, what therapeutic outcome that patient had as a result of taking the medication, thereby breaching Article 2 of the Code of Conduct and/or committing acts of professional misconduct.
7. You falsified the clinic medical records respecting some or all of 25 patients by one or more of the following means:
 - a) failing to record all prescriptions you issued in the name of the patient,
 - b) recording prescriptions as though they were issued solely for the use of the patient, when in fact they were wholly or partially for your own use,
 - c) recording narcotic prescriptions as though they were issued solely for the use of the patient, when you knew or ought to have known they were not,
 - d) removing a page of one patient's medical record and substituting therefor a page with different entries, thereby breaching the record keeping requirements of By-Law No. 1 of the College and/or committing an act or acts of professional misconduct.
8. On May 11, 2009 during the course of an interview with the Investigation Chair of the College, you attempted to mislead the College, thereby committing an act of professional misconduct. Particulars include one or more of the following:
 - a) You stated that you had not benefited in any way from the prescriptions given to a specific patient.
 - b) You stated that a specific patient did not give any of his narcotic medication back to you.
 - c) You stated that you did not abuse prescription medication.
 - d) You stated that you had used Percocet only once when it was prescribed to you following surgery in 2008.

9. On May 21, 2009 during the course of an interview with the Investigation Chair of the College, you attempted to mislead the College, thereby committing an act of professional misconduct. Particulars include one or more of the following:

- a) You stated that a specific patient was the only patient who asked you for narcotics prescriptions in the name of other people.
- b) You failed to identify all of the patients involved in your inappropriate narcotic prescribing when asked to do so.

10. By reason of the foregoing you have displayed a lack of knowledge of or a lack of skill and judgment in the practice of medicine.

Notices, etc...

Important Reminders...

1. If You are Physically Changing your Location

YOU MUST:

- Advise where your records will be stored so the College can note it.
- Advise interested parties.

Remember, if you have not practised in Manitoba for a period of more than two (2) years without Council's permission, your name will be removed from the Medical Register. That date will be 2 years from the time you stop practice.

2. If You are Closing a Practice

YOU MUST:

- Read College Statement #172 "Permanent Closure of a Medical Practice", which outlines all the things you must do. It doesn't matter why you're closing the practice. It may be because someone has to close it on your behalf because of your illness or death.

Every doctor must think about what happens if he or she closes a practice for any reason whatsoever and, in particular, be prepared to have records stored and available to patients.

Accepting Visiting Medical Students for Electives (UG/PG)

Are you considering sponsoring a medical student and/or resident for an elective? ALL visiting medical students and residents must be registered with the University of Manitoba and The College of Physicians & Surgeons of Manitoba. There is a defined process with eligibility criteria that must be met. For more information, please contact the appropriate person at the University of Manitoba:

Undergraduate Medical Students:
Ms Tara Petrychko; Tel: (204) 977-5675
Email: petrych@ms.umanitoba.ca

Residents (Postgraduates):
Ms Laura Kryger; Tel: (204) 789-3453
Email: krygerl@cc.umanitoba.ca

Website:
<http://www.umanitoba.ca/faculties/medicine/education/index.html>

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Assistant Registrar:	Dr. A. Ziomek
Assistant Registrar/Legal Counsel:	Ms D. Kelly

Term expiring June 2010

Central	Dr. E. Persson, Morden
Interlake	Dr. D. Lindsay, Selkirk
Northman	Dr. H. Tassi, Thompson
Parkland	Dr. D. O'Hagan, Ste. Rose
Winnipeg	Dr. M. Burnett
	Dr. A. MacDiarmid
	Dr. R. Onotera
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University of Manitoba	Dr. W. Fleisher
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Clinical Assistant Register	Dr. M. Hochman

Term expiring June 2012

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Westman	Dr. D. Chapman, Neepawa
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Approved Billing Procedure

When physicians wish to recruit a colleague to carry out the practice of medicine in their place and bill in their names, the College must be advised in advance and approve the specific time interval. Only when written approval is received may a physician act in place of another. Without written approval as a locum tenens, one physician may replace another, but must act and bill independently