

## **COLLEGE OF PHYSICIANS AND SURGEONS OF NOVA SCOTIA**

### **SUMMARY OF DECISION OF INVESTIGATION COMMITTEE “D”**

**Dr. Jalal Hosein**

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Investigation Committee “D” of the College of Physicians and Surgeons of Nova Scotia (the College) concluded its investigation into a complaint against Dr. Hosein by Decision dated January 31, 2017. The Investigation Committee reached agreement with Dr. Hosein with respect to the disposition of the complaint. A summary of the complaint and its disposition appears below.

#### **PROCESS:**

This matter was initiated by a letter from the complainant, Mr. X, received on April 25, 2016. A response from Dr. Jalal Hosein was received on June 2, 2016.

Investigation Committee “D”, formed in accordance with the *Medical Act* of Nova Scotia, 2011, was responsible for the investigation of this complaint.

In addition to the complaint and response, the Committee considered the following:

- a) 2015 prescribing report;
- b) 2016 Q1 prescribing report;
- c) 2015/2016 quarterly comparison prescribing report;
- d) Practice Review Committee (PRC) letter of enquiry;
- e) Dr. Hosein’s response letter to PRC letter of enquiry;
- f) Q1 2016 prescriber profile report;
- g) patient C medical information;
- h) prescribing audit report; and
- i) interview of Dr. Jalal Hosein on January 31, 2017.

#### **PARTIES:**

Dr. Jalal Hosein is a physician, licensed to practise family medicine in Nova Scotia since 1973.

Mr. X works at the Nova Scotia Prescription Monitoring Program (PMP).

#### **SUMMARY:**

##### **Key points as reported by the Complainant:**

Mr. X submitted the complaint on behalf of the Practice Review Committee (PRC). Concerns were raised following a prescribing review of Dr. Hosein by the PRC on November 25, 2015.

The PRC initiated a review of Dr. Hosein’s prescribing based on PMP’s risk score analysis. Dr.

Hosein ranked #17 in comparison to other general practitioners in the province. He had a total risk score of 120.

The PRC determined a letter of inquiry should be sent to Dr. Hosein asking specific questions regarding his prescribing practices. Specifically, the letter requested background information regarding the prescribing of high volume prescriptions, high days' supply volume, additional prescribing trends and a patient of interest to the PRC. The letter was sent on December 14, 2015.

Dr. Hosein's response letter was reviewed by PRC on February 17, 2016. In reviewing the response, the Committee felt Dr. Hosein did not provide enough information on overall prescribing practices. Dr. Hosein did acknowledge an opportunity to provide lower volume prescriptions.

The PRC had further concerns regarding prescribing Dilaudid versus a generic drug. The PRC also had difficulty with the provided rationale for prescribing stimulants. There were concerns regarding whether patients were being appropriately assessed and monitored. The PRC determined that a call by the PMP medical consultant would be beneficial in gaining a better understanding of Dr. Hosein's practices.

The PMP medical consultant spoke with Dr. Hosein on March 24, 2016. Dr. Hosein provided questionable explanations with respect to prescribing stimulants. Specifically, he indicated that Patient C did not have a formal diagnosis of ADD, but he did feel he had the illness.

During the conversation, Dr. Hosein noted that he has also involved patients in a 3-way discussion regarding the use of Adderall after prostatectomy surgery. The discussions were understood to include reference to the benefit of Adderall related to lack of focus and motivation after surgery. The PRC and PMP medical consultant were concerned this approach could lead the patient to selecting a treatment choice based on inappropriate information. There were also concerns this could lead to a possible breach of confidentiality.

#### **Key points reported by the Respondent:**

In response, Dr. Hosein reports he has already adjusted the dispensing of medications to monthly and thus a lower tablet count. In two patients, he decreased the daily dose to a lesser amount of medication. Dr. Hosein has also started to use generic rather than Dilaudid with the exception of one or two patients.

With respect to confidentiality, Dr. Hosein states there was a three way conversation regarding prostate surgery. Patient A had prostate surgery, radiation and hormone treatment. He functions very well. Patient B was attending an appointment with Dr. Hosein and was troubled due to the impending prostate surgery. Dr. Hosein called Patient A to describe his post-surgery life to Patient B.

Patient A answered questions based on his experience and Patient B left the appointment more optimistic regarding surgery. Patient A does not know Patient B. Dr. Hosein believes this is a

buddy system that works.

Patient A was prescribed Adderall 10 mg for decreased focus and concentration. Dr. Hosein reports it worked well for the patient at that time. Patient A has not had a prescription since 2014.

Patient C was on a fixed pension and the amount of tablets given (3 months) was to help him financially due to prescription fees. Dr. Hosein reports his next prescription to him will be monthly. Patient C suffers from fibromyalgia and severe jaw pain due to five previous jaw surgeries. Patient C was diagnosed with ADD by a psychiatrist who is now retired.

### **CONCERNS/ALLEGATIONS OF COMPLAINANT:**

Mr. X alleges Dr. Hosein prescribes in high doses with a high days' supply volume. Mr. X further alleges Dr. Hosein prescribes Dilaudid rather than a generic drug and he is concerned with Dr. Hosein's rationale for prescribing stimulants. Mr. X also questioned whether Dr. Hosein's patients were being properly assessed and monitored.

### **CONCERN OF COMMITTEE:**

As with all complaints, the Investigation Committee is not limited to investigating only the concerns set out in the complaint. The Committee has the responsibility to look into all aspects of a physician's conduct, capacity or fitness to practise medicine that arise in the course of the investigation.

In this matter, after reviewing all available information, the Committee identified the following concerns arising from the investigation of this complaint:

- a) Following review of the audit report, the Committee believes Dr. Hosein's medical records did not meet the College's Professional Standards Regarding Medical Records.

### **DISCUSSION:**

Before discussing the details of this case, the Committee would like to acknowledge that Dr. Hosein seems well-intentioned in providing care to his patients. During his interview, Dr. Hosein was quite knowledgeable and passionate when speaking of his patient/physician relationships.

Based on the interview with Dr. Hosein, the Committee is concerned Dr. Hosein has not participated in appropriate continuing professional development with respect to the deficiencies outlined by the PRC. The Committee particularly notes the importance of attending prescribing related courses to keep up with the most current guidelines.

In reviewing materials provided by PMP, the Committee is further concerned there is a use of opioids for patients with identified risk factors for misuse. The audit also identified lack of appropriate evaluations of patients prior to prescribing stimulants.

In reviewing the audit report dated December 16, 2016, the auditor detailed the following concerns:

- a) records are often illegible;
- b) telephone numbers are often missing or outdated;
- c) the subjective component of SOAP notes very often only contain one word. Often it is not clear what the nature of the presenting problem is;
- d) medication lists are not updated. There is no indication of review of allergies/sensitivities to medication;
- e) there is very often no indication that any physical examination took place;
- f) there is no documentation of self-report evaluation or collateral information for the majority of ADHD cases reviewed;
- g) auditor found no documentation of any mental health assessments done by Dr. Hosein;
- h) auditor found no evidence of substance use disorder screening done by Dr. Hosein;
- i) there seemed to be no systematic approach to diagnosis;
- j) the clinical record showed no screening for stimulant risk factors;
- k) auditor found no evidence of screening for misuse or addiction;
- l) stimulants appear to be prescribed for vague complaints;
- m) there is no record or review of medication tolerance;
- n) follow-up appointments give scant information on “progress”; and
- o) the indications never seem to be questioned or considered.

The Committee believes Dr. Hosein’s lack of detail and assessment in the medical record puts patients at risk as the records would not provide sufficient information in the event transfer of care was required.

Dr. Hosein responded to the audit report and indicated he would initiate patient agreements and urine testing. He also confirmed he plans to make his notes more legible and he will document appropriately. Dr. Hosein stated he would be agreeable to a follow-up audit in 3-6 months so the positive changes he intends to make will be shown to the College.

The Committee notes Dr. Hosein did not follow-up on his commitment to Mr. X on January 19, 2016 to implement urine drug testing on patients who are prescribed controlled substances. Dr. Hosein indicated in his interview on January 31, 2017 that he has yet to commence urine screening.

The Committee would like to remind Dr. Hosein that Doctors NS provides support to physicians experiencing challenges in their practices.

For the reasons listed above, the Committee considers this case to be outside the realm of Caution and warrants a Reprimand.

#### **DECISION:**

In accordance with clause 99(5)(f) of the regulations under the *Medical Act*, the Committee has determined there is sufficient evidence that, if proven, would constitute professional misconduct

on the part of Dr. Hosein, of such a kind as to warrant a licensing sanction.

Rather than refer the matter to a hearing, the Committee has determined that the matters can be resolved with the consent of Dr. Hosein to the following, in accordance with clause 99(7) of the regulations:

Dr. Hosein is **Reprimanded** for failing to follow acceptable standards with respect to medical record keeping;

Dr. Hosein is **Reprimanded** for failing to keep current with respect to controlled substance guidelines such as the College endorsed CDC Guidelines for Prescribing Opioids for Chronic Pain. This includes failing to have appropriate patient agreements and urine drug screening;

Dr. Hosein is **Reprimanded** for deficiencies in patient assessment and care planning.

In addition to the Reprimand, pursuant to clause 99(7) the Committee requires the following conditions to be fulfilled:

- a) attend the next offering of The Prescribing Course - Safe Opioid Prescribing for Chronic Non-Cancer Pain at his own cost;
- b) attend the next offering of the medical record keeping course at his own cost;
- c) an audit in six months at his own cost to assess his record keeping, adherence to appropriate prescribing practices and proper office environment as per the College Standards (See attached “Professional Standards Regarding Infection Prevention and Control in the Physician’s Office” “guidelines for Vaccine Storage and Handling” and “Professional Standard Regarding Review of Monitored Drug History Before Prescribing”); and
- d) an Audit in one year at his own cost to assess the implementation and appropriate use of an EMR.

Dr. Hosein also agrees to contribute an amount toward the College’s costs in this matter.

Dr. Hosein has agreed to this disposition.