

PROVINCE OF NOVA SCOTIA )  
COUNTY OF HALIFAX )

IN THE MATTER OF: The **Medical Act**, S.N.S. 2011, c. 38

- and-

Dr. Richard Norman Leckey

### **CONSENT TO REPRIMAND FOLLOWING REFERRAL TO HEARING**

Dr. Richard Norman Leckey, a medical practitioner in the Province of Nova Scotia, and a member of the College of Physicians and Surgeons of Nova Scotia (the "**College**"), hereby agrees with, and consents to, the following in accordance with the provisions of the *Medical Act*.

#### **I. COMPLAINT TO THE COLLEGE**

1. On April 24, 2015, Patient G filed a complaint against Dr. Leckey. Patient G alleged that the care she received from Dr. Leckey was inadequate and unprofessional. Specifically, Patient G alleged the following:
  - a. Dr. Leckey did not provide a thorough examination;
  - b. Dr. Leckey advised her there was no explanation for her symptoms and she may "grow out of it";
  - c. Dr. Leckey relied on the notes and investigations of the other physicians in her file rather than completing his own examination;
  - d. Dr. Leckey did not order any tests;
  - e. Dr. Leckey's report was inaccurate in that he said she had slow, hesitant speech and was unable to walk, which she alleges are not true; and
  - f. Dr. Leckey was content to give up on her.

#### **II. STEPS TAKEN BY INVESTIGATION COMMITTEE**

2. During the course of the investigation, the Investigation Committee reviewed the following information:
  - a. Response from Dr. Richard Leckey dated on May 27, 2015;
  - b. Medical record for Patient G from the Aberdeen Hospital;
  - c. Interview of Dr. Leckey;

- d. Audit of Dr. Leckey's neurology practice at the Aberdeen Hospital;
  - e. Comments from Dr. Leckey regarding the audit report;
  - f. MSI billing report for visits which were reviewed by the auditor;
  - g. MSI billing for patients seen by Dr. Leckey on four clinic days (March 13 and July 31, 2014, February 12 and June 4, 2015);
  - h. Clinic patient lists for February 12 to July 2, 2015 obtained from the Aberdeen Hospital;
  - i. Confirmation of participation in the University of Toronto medical recording keeping course provided by Dr. Leckey;
  - j. Comments from Dr. Leckey regarding MSI billing report and patient lists;
  - k. Expert opinion filed by Dr. Leckey regarding MSI billing; and
  - l. Correspondence from Dr. Leckey's legal counsel dated July 29, 2016 together with copies of various medical charts.
3. The audit of Dr. Leckey's neurology practice at the Aberdeen Hospital identified the following concerns:
- a. Complete standard neurological exams were not recorded in most cases;
  - b. The neurological exam appeared incomplete in many cases;
  - c. Past history was rarely documented;
  - d. A family history was rarely recorded;
  - e. The reasons for investigating or not investigating a problem was not well documented; and
  - f. A differential diagnosis was rarely recorded.
4. The materials also raised concerns as to Dr. Leckey's use of the comprehensive consultation billing code for many of the patient visits reviewed.
5. The Investigation Committee considered the following.
6. Dr. Richard Leckey is a physician licensed to practice medicine in Nova Scotia in the specialty of Neurology and has been practicing neurology in Nova Scotia since 1999. In addition to his practice in Halifax, Nova Scotia, Dr. Leckey traveled to a clinic held regularly at the Aberdeen Hospital in New Glasgow, Nova Scotia.
7. Patient G was referred to Dr. Leckey by Dr. C, who had seen Patient G for PTSD (post-traumatic stress disorder) following a car accident. Dr. Leckey reports he was asked to review Patient G for underlying neurological diagnoses.

8. Dr. Leckey saw Patient G on February 26, 2015 with her companion. Patient G's allegations against Dr. Leckey are set out above.
9. Dr. Leckey stated that Patient G had been seen by multiple other consultants prior to his assessment. Dr. Leckey stated that he was able to rely on the findings and documentation of these other consultants and their documentation of family history, medications, and prior medical history.
10. Dr. Leckey stated that both Patient G and her companion were quite upset during the appointment. He indicated that this made it difficult for him to obtain accurate information or to complete a full examination. Dr. Leckey stated that the findings of a physical neurological examination would have been flawed given Patient G's agitated state. Dr. Leckey stated that he did conduct an examination by observation as a large part of the neurological assessment is done by observation.
11. Dr. Leckey stated that the prior documentation of investigations included a report from a neurosurgeon and a full body MRI. Dr. Leckey stated that he reviewed the MRI with Patient G and explained that the minor disc herniations found could not account for her symptoms. Dr. Leckey stated that Patient G's presentation and his observation of Patient G were not compatible with a neurological disease.
12. Dr. Leckey stated that he did not know the cause of her symptoms and that he determined that Patient G needed further investigations and ordered an MRI of her head to rule out the possibility of a CNS pathology.
13. With respect to the alleged inability to walk, Dr. Leckey stated that Patient G presented at the appointment in a wheelchair. Further, the report from neurosurgery indicated she could only climb a few stairs without severe pain. Based on this, Dr. Leckey's report included the statement that she could not walk. He did not state that she was paralyzed.
14. Dr. Leckey states that by ordering an MRI of Patient G's head to rule out the possibility of a CNS pathology that he demonstrated that had not "given up on her".
15. With respect to this patient, the Investigation Committee was concerned Dr. Leckey chose to rely on the findings and documentation of previous physicians rather than conducting his own complete examination and history.
16. The Investigation Committee also noted that Patient G was referred for neurological examination to assess functional impairment and that this was not fully completed as no physical examination was completed, although Dr. Leckey billed MSI for a comprehensive consultation.
17. The Investigation Committee noted that Dr. Leckey books a large number of patients per day, that Dr. Leckey bills MSI for "comprehensive consultations" for many patient visits, including many follow-up visits, and that Dr. Leckey's medical record for this patient did not meet acceptable standards. The Investigation Committee determined that an audit of Dr. Leckey's practice was in order.
18. Twenty patient files from the Aberdeen Hospital were examined by an Ontario-based neurologist. The audit showed serious deficiencies in documentation and also raised concerns regarding patient care.

19. Dr. Leckey stated the charts reviewed belong to the hospital. He stated his private clinic charts are much more organized but regardless, acknowledged that improvements were required with respect to his documentation.
20. Dr. Leckey completed the University of Toronto Medical Record Keeping course on November 30, 2015 and committed to making improvements in this regard. Dr. Leckey stated that since taking the medical recording keeping course, he now records more details of his history and examination.
21. Otherwise, Dr. Leckey stated that many of the deficiencies identified by the auditor were issues with documentation only, and were not issues with his care. Dr. Leckey also disagreed with some of the auditor's concerns regarding the need for investigations with respect to specific conditions. Dr. Leckey further stated that although previous visits at other sites are not included on the hospital chart, they are available through the hospital EMR which he can access.
22. The Investigation Committee was concerned with Dr. Leckey's MSI billings for patients who were clearly seen in follow-up and who, based on the medical record and time available, did not have a comprehensive consultation. MSI confirmed each of these visits were billed as a comprehensive consultation.
23. Two days of booking were examined. It was noted that patients were scheduled as either rechecks or comprehensive consultations booked every 15 to 20 minutes, although all were billed as comprehensive consultations.
24. Dr. Leckey responded to this concern and stated all patient encounters billed as comprehensive consultations did meet the requirements under the billing code 03.08, specifically "in-depth evaluation of a patient necessitated by the seriousness, complexity or obscurity of the patient's complaints or medical conditions". As well, he stated a complete history and physical examination was performed for each patient.
25. Dr. Leckey noted that the MSI Physician's Manual contemplates that a comprehensive visit includes a follow-up or subsequent comprehensive visit provided that follow-up or subsequent comprehensive visits may not be claimed more than once every 30 days and when diagnosing and treating a new condition or further complications of an existing condition.
26. The Investigation Committee contacted MSI with respect to the use of the billing code 03.08 (comprehensive consultation). Although the MSI Physician's Manual explicitly contemplates a "subsequent comprehensive visit", the MSI representative stated that this code is not appropriate for follow-up visits. The MSI representative stated recheck visits should be billed as HSC 03.04.
27. Dr. Leckey stated that MSI does not set a specific amount of time required to spend with a patient in order to justify billing a comprehensive consultation. He stated that his schedule allows for some patients to cancel which makes room for urgent patients. He also stated that he works long hours to see the number of patients. He stated that since the audit and medical record keeping course however, he now schedules fewer patients per day.
28. Dr. Leckey stated that he did examine all the patients for whom he billed a comprehensive consultation and that he did document that he did conduct such examinations. He stated that he may have failed to sufficiently document the degree to which he conducted the examination for medical purposes.

29. Dr. Leckey provided an opinion from a New Brunswick neurologist who felt it was reasonable that Dr. Leckey could see 20-25 patients per day if the consultation was reviewed in advance and the history gathered during the electro-diagnostic studies. He felt it was feasible to see 20-25 patients per day if time was spent at the end of the day completing dictation. This expert did not comment on whether this capacity referred to follow up visits, subsequent comprehensive consultations, or initial comprehensive consultations.
30. The Investigation Committee did not accept Dr. Leckey's affirmation that he could and did adequately conduct and document 20-25 comprehensive consultations in one day and found that the medical records did not reflect comprehensive consultations from a medical perspective.
31. While the Investigation Committee notes that the patients whose charts were audited were all initial consultations (with the exception of one patient who was noted as a follow-up, and billed accordingly) the charts for these patients did not sufficiently document the type of full examinations, as expected.
32. After reviewing all available information, the Investigation Committee was concerned that Dr. Leckey books a large number of patients per day, which may not allow sufficient time to complete a comprehensive consultation; that Dr. Leckey bills MSI for "comprehensive consultations" for many patient visits, but fails to document physical examinations for many, including this complainant; and that Dr. Leckey's medical records do not meet acceptable standards.
33. The Investigation Committee determined that there was sufficient evidence that, if proven to be true, would amount to one or more findings of professional misconduct. The Investigation Committee referred this matter to a Hearing Committee. Before a hearing commenced, the College and Dr. Leckey came to this agreement.

### **III. ALLEGATIONS IN THE NOTICE OF REFERRAL TO HEARING.**

34. In the Notice of Referral to Hearing, the College made the following allegations:
  - a. With respect to Patient G, in or about February 2015, Dr. Leckey:
    - i. Failed to conduct a physical examination and to take a full history;
    - ii. Failed to follow acceptable standards with respect to medical record keeping;  
and
    - iii. Provided inaccurate information in his reporting letter documenting the February 2015 patient visit.
  - b. With respect to those patients whose records were reviewed in the course of an audit performed by the College, Dr. Leckey:
    - i. Failed to conduct physical examinations and take a full history despite billing MSI for a comprehensive consultation for these patients; and
    - ii. Failed to follow acceptable standards with respect to his medical record keeping.

- c. With respect to patients who were seen by Dr. Leckey on February 12, 2015, February 25, 2015, June 4, 2015, and July 2, 2015, Dr. Leckey:
  - i. Failed to conduct adequate examinations and evaluations to satisfy the billing code of a comprehensive consultation.

#### **IV. ADMISSIONS**

- 35. Dr. Leckey admits:
  - a. With respect to Patient G, in or about February 2015, he:
    - i. Improperly elected to not conduct a physical examination and to take a full history;
    - ii. Failed to follow acceptable standards with respect to medical record keeping; and
    - iii. Provided imprecise information in his reporting letter documenting the February 2015 patient visit.
  - b. With respect to a number of those patients whose records were reviewed in the course of an audit performed by the College:
    - i. The degree to which he conducted physical examinations and/or the degree to which he took a history may have been sufficient for the purposes of a limited consult, but were insufficient for the purposes of a comprehensive consultation, despite billing for a comprehensive consultation for said visits; and
    - ii. Failed to follow acceptable standards with respect to his medical record keeping.
  - c. With respect to a number of the patients who were seen by Dr. Leckey on February 12, 2015, February 26, 2015, June 4, 2015, and July 2, 2015:
    - i. The degree to which conducted examinations and/or the degree to which he conducted evaluations may have been sufficient for the purposes of a limited consult, but were insufficient for the purposes of a comprehensive consultation, despite billing for a comprehensive consultation for said visits.

#### **V. DISPOSITION**

- 36. Dr. Leckey is reprimanded for:
  - a. With respect to Patient G, in or about February 2015,
    - i. Improperly electing to not conduct a physical examination and to take a full history;
    - ii. Failing to follow acceptable standards with respect to medical record keeping; and
    - iii. Providing imprecise information in his reporting letter documenting the February 2015 patient visit.

- b. With respect to a number of those patients whose records were reviewed in the course of an audit performed by the College:
    - i. Billing for a comprehensive consultation for visits where the degree to which he conducted physical examinations and/or the degree to which he took a history may have been sufficient for the purposes of a limited consult but were insufficient for the purposes of a comprehensive consultation; and
    - ii. Failing to follow acceptable standards with respect to his medical record keeping.
  - c. With respect to a number of patients who were seen by Dr. Leckey on February 12, 2015, February 26, 2015, June 4, 2015, and July 2, 2015,
    - i. Billing for a comprehensive consultation for visits where the degree to which he conducted examinations and/or the degree to which he conducted evaluations may have been sufficient for the purposes of a limited consult but were insufficient to satisfy the billing code of a comprehensive consultation.
37. Dr. Leckey shall undergo a follow-up practice audit in six months from the effective date of this agreement, reviewing his practice and associated records from the effective date forward, at his cost. This practice audit will include an assessment of Dr. Leckey's record keeping and the appropriateness of billing codes used by Dr. Leckey.

## **VI. COSTS**

38. Dr. Leckey agrees to contribute to an amount toward the College's costs in this matter.