

COLLEGE OF PHYSICIANS AND SURGEONS OF NOVA SCOTIA
SUMMARY OF DECISION OF INVESTIGATION COMMITTEE B

Dr. Richard Heinrichs
License Number 014359

Investigation Committee B of the College of Physicians and Surgeons of Nova Scotia (“the College”) concluded its investigation into a complaint against Dr. Heinrichs by Decision dated August 27, 2018. The Investigation Committee reached agreement with Dr. Heinrichs with respect to the disposition of the complaint. A summary of the complaint and its disposition appears below.

OVERVIEW

This matter involved a complaint from Health Canada respecting a prescription written by Dr. Heinrichs in Florida intended to be dispensed by a pharmacy in Vancouver, British Columbia. There were concerns respecting potential contravention of regulations respecting controlled substances.

SUMMARY

Key points as reported by the Complainant

On April 27, 2017, Dr. Grant received a letter from Health Canada. The letter advised that as the result of a pharmacy inspection in Vancouver, British Columbia, a prescription written by Dr. Heinrichs for a controlled substance had been reviewed. Health Canada alleged Dr. Heinrichs may have contravened the *Benzodiazepines and Other Targeted Substances Regulations* (BOTSR) by co-signing prescriptions by American doctors to American patients. Further, the subsequent exportation of this medication outside of Canada contravened the *Controlled Drugs and Substances Act* (CDSA).

Further investigation by the Professional Conduct Department of the College revealed a prescription for Mogadon (nitrazepam) was written by Dr. Heinrichs in Florida, for a patient from Tennessee. The American patient sent the prescription to the pharmacy in Vancouver, where it was filled and mailed back to the US.

The College wrote to Dr. Heinrichs for an explanation regarding the prescription. After receiving Dr. Heinrichs’ response, a formal complaint was lodged by the Registrar.

Key points reported by the Respondent

In response to the complaint, Dr. Heinrichs states he currently practices at a free clinic in Sarasota, Florida. Many of the patients in this clinic do not have medical insurance. He and the staff of the

clinic assist these patients to find affordable medication through various drug programs, and by ordering medication from Canadian pharmacies.

In this particular case, Dr. Heinrichs recalls speaking by telephone to a mother of a child with intractable epilepsy who was not responding to various treatments. In speaking with the child's treating physician, Dr. Heinrichs learned the physician had hopes of starting the child on a new medication, Mogadon (nitrazepam), which was not available in the United States at the time. The child's mother was going to order the medication from a pharmacy in BC. Dr. Heinrichs agreed to co-sign a prescription that would allow the medication to be dispensed in Canada. At the time he signed the prescription, Dr. Heinrichs was not aware Mogadon (nitrazepam) was a benzodiazepine.

Dr. Heinrichs acknowledges writing the prescription for Mogadon (nitrazepam) with this Nova Scotia licence was a mistake. It is his understanding an American patient could have filled the prescription in person at a Canadian pharmacy. An error was made by the pharmacy by sending the medication to the patient by mail. Dr. Heinrichs believes it is unfortunate the pharmacy in BC did not catch the error.

CONCERNS/ALLEGATIONS OF COMPLAINANT

Dr. Grant alleges Dr. Heinrichs:

- prescribed medication, Mogadon (nitrazepam), to a patient whom he has never seen or assessed;
- prescribed the medication without knowing what it was, or that it was a controlled substance; and
- prescribed Mogadon (nitrazepam) using his Nova Scotia licence solely to enable an American patient to access medications in Canada.

CONCERNS 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 instance, the Committee noted an additional area of concern arising from the investigation of this complaint beyond those expressed by Dr. Grant:

- Dr. Heinrichs receives and accepts financial compensation from pharmacies to which he sends prescriptions.

DISCUSSION

The Committee recognizes that Dr. Heinrichs admitted to all allegations of the complainant:

- he prescribed a medication, Mogadon (nitrazepam), to a patient whom he has never seen or assessed;
- he prescribed the medication without knowing what it was, or that it was a controlled substance; and
- he prescribed Mogadon (nitrazepam) using his Nova Scotia licence solely to enable an American patient to access medications in Canada.

The Committee also acknowledges Dr. Heinrichs freely admitted to receiving payments from pharmacies to which he sends prescriptions.

The Committee finds the actions of Dr. Heinrichs are in violation of the following College of Physicians and Surgeons of Nova Scotia Standards:

- *Professional Standard on Prescribing in the Absence of Direct Patient Contact*
- *Professional Standard Regarding Conflict of Interest*
- *Professional Standards and Guidelines Regarding Informed Patient Consent to Treatment*

The Committee finds the actions of Dr. Heinrichs are in violation of the following Canadian Medical Association Guideline:

- *Guidelines for Physicians in Interactions with Industry.*

DISPOSITION

With the consent of Dr. Heinrichs, the Investigation Committee issued a reprimand for:

- failure to see and assess a patient before prescribing a medication for that patient;
- failure to familiarize himself with a medication which he prescribed, or recognize that said medication was a controlled substance under the *Controlled Drugs and Substances Act* (CDSA);
- prescribing a medication using his Nova Scotia licence solely to enable an American patient to access medications in Canada; and
- receiving and accepting payments from a pharmacy for prescriptions he has sent to that pharmacy.

In addition, Dr. Heinrichs agreed to a consensual restriction under clause 99(7)(a)(ii) of the *Regulations* whereby he will permanently stop using his Nova Scotia licence to prescribe all drugs that fall under the *Controlled Drugs and Substances Act* in Canada. This requires Dr. Heinrichs to write to Health Canada using the attached templated letter and to copy the College with the letter and any response received. Should Dr. Heinrichs wish to have these prescribing privileges reinstated in the future, this will require the support of the College of Physicians and Surgeons of

Nova Scotia. This amounts to a restriction on Dr. Heinrich's licence and will result in a change in licensing category from Full to Restricted. The restriction will be noted on the Registration and Licencing section of the College's website as a condition. Appropriate stakeholders will be notified.

In addition, Dr. Heinrichs was required to pay an agreed upon amount of costs to the College to reimburse costs of the investigation of this matter.

Dr. Heinrichs agreed to accept this disposition on September 11, 2018.