

# COLLEGE OF PHYSICIANS AND SURGEONS OF NOVA SCOTIA

## SUMMARY OF INVESTIGATION COMMITTEE "B"

**Dr. Martin Henry Fleckenstein**  
**License Number 007579**

### **OVERVIEW**

Investigation Committee "B" concluded an investigation respecting Dr. Fleckenstein's competence, and his opioid and benzodiazepine prescribing practices.

In March, 2020, during the course of the investigation Dr. Fleckenstein gave an undertaking to the College where he agreed to refrain from starting any patient on a new prescription for any monitored substance. In April, 2020, the undertaking was modified to allow new starts only at the Kings Rehabilitation Center, and under the monitoring of the Medical Director. That undertaking remains in effect.

As a result of its investigation the Committee entered an agreement with Dr. Fleckenstein whereby he agreed to:

- (a) continue his undertaking as a restriction on his licence,
- (b) a plan for remediation and supervision, and
- (c) a consensual reprimand.

### **The Matters Under Investigation**

In the course of following up matters that came to the College's attention during a regulatory process, Investigation Committee "B" ordered an assessment to assess Dr. Fleckenstein's clinical practice in terms of comprehensiveness, follow-up and written and verbal communication. A second assessment was directed with a focus on patients having multiple opioid and benzodiazepine prescriptions.

The assessor found Dr. Fleckenstein's medical records had recently been migrated to a full electronic medical record system and noted cumulative patient profiles were generally complete. However, the assessor identified a number of concerns as follows:

- histories and physical examinations were superficial;
- mental status examinations were superficial;
- electronic chronic disease management templates were used but abnormal laboratory values were not addressed;
- there were a number of examples of inappropriate assessment and management such as testosterone prescribed to a patient at high risk for myocardial infarctions or stroke, unopposed estrogen prescribed without concern for long term side effects, and a superficial diagnosis of premature menopause.

The assessor noted Dr. Fleckenstein wrote appropriate consultation letters, however, follow up of recommendations from consultants and discharge summaries was insufficient. The assessor further noted many of Dr. Fleckenstein's high-risk patients did not have up to date vaccinations.

The assessor recommended Dr. Fleckenstein pay more attention to the history of chief complaints, the documentation of physical examinations, more complete differential diagnoses and better monitoring of acute issues and changes in management.

With respect to the assessment that focused on patients with multiple opioid and benzodiazepine prescriptions, the assessor noted Dr. Fleckenstein was increasing his use of opioid contracts and random urine drugs screens (UDS). However, the assessor noted Dr. Fleckenstein did not access his patients' Prescription Monitoring Program or Drug Information System records.

The assessor noted superficial histories and limited physical examinations, and found there was poor exploration of the reasons for therapy. There were limited differential diagnoses. There was no congruity between the chief complaint, the examination, the assessment, and the management plan. The assessor noted the treatment of comorbid psychiatric and addiction problems was inadequately addressed.

With regard to opioid therapy for chronic non-cancer pain, the assessor noted the diagnosis and treatment indications were not reviewed periodically. The assessment of functioning was poorly documented. She noted many patients were on more than 50 morphine milligram equivalents (MMEs), and twelve of the thirty charts reviewed showed patients were being prescribed in excess of 90 MMEs.

The assessor noted many patients were on two different benzodiazepines. Some patients were co-prescribed benzodiazepines and opioids. Twelve of the thirty charts reviewed had co-prescriptions for benzodiazepines and opioids. Five patients had two concurrent benzodiazepine prescriptions. One patient who had a recent attempted drug overdose had been prescribed multiple medications with multiple refills despite repeated attempts at overdose. One patient had been prescribed methyphenidate, hydromorph contin, and hydromorphone.

The assessor noted high doses of short-acting opioids were prescribed where long-acting would be more appropriate. One patient presented their own plan for prescription of 2 different opioids, which Dr. Fleckenstein prescribed.

The assessor noted follow up of unexpected results of urine drug screens was inconsistent. She noted most prescriptions for opioids and benzodiazepines were for less than 3 months, but some prescriptions had been issued for up to a year without reassessment

The assessor noted Dr. Fleckenstein made limited use of adjunctive pain medications, non-opioid pharmacotherapy, physiotherapy, or other non-pharmacological therapies.

The assessor noted Dr. Fleckenstein was receptive to advice and arranged for some patients identified by the assessor to be immediately reviewed. He indicated a firm commitment to address the identified concerns.

### **Dr. Fleckenstein's response to the Matters under Investigation**

In his response to this assessment, Dr. Fleckenstein stated he was committed to improving his medical record keeping and his opioid prescribing. He acknowledged his documentation was

limited but did not feel the documentation was reflective of care he provided. Dr. Fleckenstein noted he was a poor and slow typist, and this hindered the entrance of details of his encounters into his EMR. He has been considering using dictation software for all his medical notes. He is currently using dictation software only for his consult letters. He stated he did consider differential diagnoses but did not reliably record these in the medical record.

Dr. Fleckenstein stated he does discuss implications of blood sugar and cholesterol measurements with patients and counsels diet and exercise before considering medications. He does order blood work every three months for his diabetic patients on a once yearly requisition. He suggests patients book follow up appointment after blood work done. He stated he cannot force them to come for these three-monthly appointments.

Dr. Fleckenstein in his response to the Committee outlined the steps he was taking to address the concerns the assessor noted with specific patients. He stated he is using his EMR to generate a list of patients who require updated vaccinations.

With regard to the prescribing audit, Dr. Fleckenstein states he has only 40 patients on chronic opioid therapy. He stated he was motivated to make sure his prescribing practice was safe and up to standard. He felt improvement in his charting will help with this. He stated he has been trying to get a Drug Information System account. He will work to document dispensing instructions more clearly.

Dr. Fleckenstein stated he does review the diagnosis and treatment indications for opioid and benzodiazepine therapy periodically with most (but not all) patients but does not chart these reviews.

Dr. Fleckenstein stated he had started using UDS and finds them helpful. He is now using them on all patients with opioid contracts. He stated he has addressed the discrepancies identified by the assessor where UDS results were not followed up.

Dr. Fleckenstein stated he will stop prescribing yearlong prescriptions for benzodiazepines. He is tapering patients who are on 2 benzodiazepines with a view to discontinuing one of the benzodiazepines. He will review all his patients on concurrent therapy with benzodiazepines and opioids and attempt to stop at least one of the medications. He will review patients receiving higher than recommended doses of opioids and will switch patients from short to long-acting opioids where possible.

### **Decision**

Based on the results of Dr. Fleckenstein's prescribing audit and his PMP profile, the Committee felt it would be unsafe to allow Dr. Fleckenstein to start patients on new prescriptions for monitored medications pending conclusion of its investigation. The Committee requested an interim undertaking from Dr. Fleckenstein to refrain from starting any patient on a new prescription for any monitored substance. Dr. Fleckenstein agreed to this undertaking on March 12, 2020.

Dr. Fleckenstein requested an amendment to this undertaking on April 1, 2020, to allow him to care for clients of the Kings Regional Rehabilitation Centre (KRRC) during the COVID-19 pandemic. The clients of this facility have behavioral issues or require palliative care and would require prescriptions of controlled substances. The medical director of KRRC volunteered to monitor all new and renewal prescriptions for controlled medications ordered by Dr. Fleckenstein in the facility and report any concerns to the College's Professional Conduct Department. The

Committee granted this amendment for his practice at the KRRC, and Dr. Fleckenstein accepted the amended undertaking on April 7, 2020.

Taken as a whole, the Committee had significant concerns with various areas of Dr. Fleckenstein's family medicine practice and episodic care.

In addition to these concerns, the Committee also had significant concerns that Dr. Fleckenstein was not meeting the standard of care in his use of opioid and benzodiazepine medications. The Committee noted Dr. Fleckenstein had a number of patients on large doses of opioids, patients prescribed benzodiazepines and opioids concurrently, and elderly patients on chronic benzodiazepine therapy. The Committee was concerned Dr. Fleckenstein did not have a coherent plan for monitoring patients for compliance, misuse, and diversion of their medications. The Committee did not feel Dr. Fleckenstein had the knowledge and skill which would allow him to successfully wean these patients to appropriate medication levels without support.

As a result of these concerns, the Committee reached a consensual agreement with Dr. Fleckenstein where he consented to a reprimand for:

1. Failing to maintain appropriate medical records, in accordance with the College's Professional Standard Regarding Medical Records despite being cautioned by an Investigation Committee in 2016 for a similar problem.
2. Failing to appropriately treat and monitor patients on controlled medications.

In addition, Dr. Fleckenstein agreed to a Remediation and Supervision Plan to be monitored by the College's physician's performance department, which would include ongoing monitoring and supervision for a period of time as set out in the Plan. The costs of the Plan will be paid by Dr. Fleckenstein.

Dr. Fleckenstein also agreed to the continuation of his practice undertaking.

As a result of these agreements, Dr. Fleckenstein's licence will be changed to a restricted licence, subject to the following restrictions:

- maintain his current amended practice undertaking with the College of April 7, 2020; and
- participate fully in the proposed Remediation and Supervision Plan as proposed by the College's Physician Performance Department. The costs of this plan will be paid by Dr. Fleckenstein.

As part of these restrictions, Dr. Fleckenstein agrees to continue to post the College approved signed in his waiting room and all examination rooms to advise of the restriction on his practice.

In addition to the above, Dr. Fleckenstein agreed to contribute to a portion of the College's costs of the investigation of this matter.