

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

Dr. Franklyn Vincent
License No: 013714
August 16, 2022

Investigation Committee “F” of the College of Physicians and Surgeons of Nova Scotia (“College”) concluded its investigation into a complaint against Dr. Franklyn Vincent by issuing its decision dated August 16, 2022. The Investigation Committee reached agreement with Dr. Vincent with respect to the disposition of the complaint. A summary of the complaint and disposition appears below.

OVERVIEW

Investigation Committee “F” investigated matters arising from a complaint filed by Patient X in September, 2021. The original complaint was dismissed.

During the investigation, the Committee learned that after Patient X filed the complaint, Dr. Vincent wrote a letter to Patient X’s legal counsel that appeared to be in retaliation to Patient X’s filing of the complaint against him with the College.

SUMMARY

Dr. Vincent is a family physician licensed to practice medicine in Nova Scotia. Patient X was a patient of Dr. Vincent’s.

Patient X suffered a fall in March, 2019. Patient X’s legal counsel requested a letter from Dr. Vincent regarding Patient’s medical condition following the fall. On March 22, 2021, Dr. Vincent wrote a letter to Patient X’s legal counsel stating that following the fall, Patient X had an injury to her ear, loss of hearing, dizziness, and imbalance.

Patient X filed her complaint with the College on September 29, 2021.

Neither Patient X nor her legal counsel asked Dr. Vincent to update the information provided in the March 22, 2021 letter or to provide any additional information about Patient X’s medical condition following the fall. However, on December 9, 2021, Dr. Vincent wrote another letter (part of which was in bold face) to Patient X’s legal counsel stating that after a chart review, he concluded that Patient X’s ear problems were not caused by an injury related to the fall and that Patient X “must have fabricated the story to make claim.”

In a written response to the Committee’s enquiries about this letter, Dr. Vincent stated when he reviewed Patient X’s chart after his Committee interview, he found the letter he sent to her

lawyer regarding her hearing impairment was incorrect. His chart review did not reveal any clinical evidence to support that statement.

The Committee also interviewed Dr. Vincent regarding his December 9, 2021 letter. In his interview, Dr. Vincent stated there was a six-month delay between when he first received a letter from Patient X's legal counsel requesting an opinion about her hearing loss and Dr. Vincent responding, as he needed to collect information, and could not find what he was looking for in the reports from the Emergency Department and her surgeons. He was not told the letter was required urgently. He did not see the connection between her fall and her hearing loss. He spoke with Patient X about the request, and based on her explanation, he wrote the report. He stated Patient X told him a week prior to her ear problems she fell and struck the right side of her head.

Dr. Vincent stated he felt the lawyers had asked him specifically to comment on whether Patient X's fall had contributed to her hearing loss. He stated in his first letter to Patient X's lawyers, he gave the opinion the fall contributed to the hearing loss, based on what Patient X had told him.

Dr. Vincent stated when he was reviewing Patient X's chart after an interview with the Investigation Committee, he found none of the notes from Patient X's visits to the Emergency Department or to her Ear Nose and Throat consultants mention her ear problem was related to her fall. He therefore felt he should correct his first letter with the letter he wrote on December 9, 2021.

Dr. Vincent stated Patient X's lawyers did not request an update. He stated part of the December 9, 2021 letter is in bold face to demonstrate "the actual truth".

Dr. Vincent stated he did not inform Patient X he was writing the second letter to her lawyers as she was no longer his patient, and he had been advised not to contact her during the investigation of her complaint. Dr. Vincent's legal counsel stated Dr. Vincent did not feel it was necessary to use alternate methods of letting her know he was writing the letter.

CONCERNS OF THE COMMITTEE

Investigation Committee F has concerns with Dr. Vincent's December 9, 2021 letter to Patient X's legal counsel. Dr. Vincent has explained to the Committee when reviewing Patient X's medical records in preparation for the College investigation, he found there were inaccuracies in his original letter of March 22, 2021, which he felt he needed to correct. He advised the Committee he based his comments in his March 22 letter based on what Patient X had told him and had since found evidence in her medical record which contradicted this information.

In the December 9, 2021 letter, Dr. Vincent outlines his assessment of the medical records and concludes there is no evidence Patient X's ear infection and subsequent permanent loss were related to her fall.

The Committee notes Dr. Vincent was not asked by any party to write a follow-up letter, but did so on his own volition. The Committee notes he did this while he was no longer Patient X's physician. The Committee agrees Dr. Vincent made no effort to inform Patient X he was writing

this second letter. While the Committee acknowledges Patient X had an open complaint against Dr. Vincent, and he had been advised by the College and his legal counsel not to contact Patient X during the investigation of the complaint, the Committee agrees Dr. Vincent had available to him other approaches to let her know about this, either through his legal counsel, or through the College.

Patient X's legal counsel did not specifically request Dr. Vincent's opinion as to whether her fall had caused her hearing loss, contrary to Dr. Vincent's assertion in his interview. Dr. Vincent did not provide such an opinion in his first reply. Dr. Vincent did state Patient X did not have symptoms of hearing loss and loss of balance before her fall and felt she should not receive compensation for any injuries suffered during the fall.

The Committee is also concerned about the tenor of the language used by Dr. Vincent in his December 9, 2021 letter. He states he found "shocking information" about Patient X's hearing loss. Numerous sections of the letter are in bold type. The concluding paragraph (again in bold type) states:

I, hereby, confirm that the tympanic membrane rupture was not caused by the injury sustained during the fall on March 26, 2019 and Patient X is not entitle (sic) for this claim.

The Committee has significant concerns about Dr. Vincent's motivations for writing this letter. The Committee does not accept Dr. Vincent's explanations for issuing the letter as plausible. He was not asked to provide follow-up comments to his initial letter. There were no significant errors of fact or opinion requiring correction in the initial letter. Dr. Vincent was not asked by Patient X's legal counsel if he felt there was a direct relationship between her fall and her hearing loss. Dr. Vincent did not explicitly state in his first letter Patient X's fall was a direct cause of her subsequent ear problems.

Moreover, the Committee is concerned Dr. Vincent has expressed, in his written statements and interviews, his fear and resentment of College complaints. He has admitted he reacted hastily to a letter sent to him by Patient X's support worker on August 19, 2021, as it contained the threat of a complaint. He has expressed concern the support worker encouraged Patient X to file a complaint. He has expressed concern the complaint process had been started behind his back. He has expressed concern patients use the threat of a College complaint in order to manipulate him.

The Committee is concerned Dr. Vincent's primary motivation for writing his December 9, 2021 letter was retaliation for Patient X filing a complaint against him. The Committee can find no other reasonable explanation for Dr. Vincent writing this letter.

The Committee is concerned in writing this letter Dr. Vincent may have breached the College's *Professional Standard Regarding Disruptive Behaviour by Physicians* which states in part:

Disruptive behaviour is conduct characterized by the use of inappropriate words, actions or inactions by physicians which shows disrespect for others or any interpersonal interaction that interferes with or is likely to interfere with quality health care delivery.

The Committee is concerned in writing this letter Dr. Vincent may have breached the Canadian Medical Associations *Code of Ethics and Professionalism*:

Consider first the well-being of the patient; always act to benefit the patient and promote the good of the patient.

The patient–physician relationship is at the heart of the practice of medicine. It is a relationship of trust that recognizes the inherent vulnerability of the patient even as the patient is an active participant in their own care. The physician owes a duty of loyalty to protect and further the patient’s best interests and goals of care by using the physician’s expertise, knowledge, and prudent clinical judgment.

The Committee is concerned Dr. Vincent’s behaviour in this instance may constitute professional misconduct and merits a licensing sanction.

DECISION

In accordance with clause 99(5)(f) of the *Medical Practitioners Regulations*, the Committee has determined there is sufficient evidence that, if proven, would constitute professional misconduct, incompetence or conduct unbecoming, warranting a licensing sanction.

Pursuant to clause 99(7)(a)(i) of the *Medical Practitioners Regulations*, and with Dr. Vincent’s consent, Dr. Vincent is reprimanded for writing a letter to the Complainant’s legal counsel designed solely to hamper her ability to seek compensation for an injury and written in retaliation for the Complainant filing a College complaint against him.

In addition, Dr. Vincent agreed to contribute an amount toward the College’s costs in this matter.

Dr. Vincent agreed to this disposition on August 16, 2022.