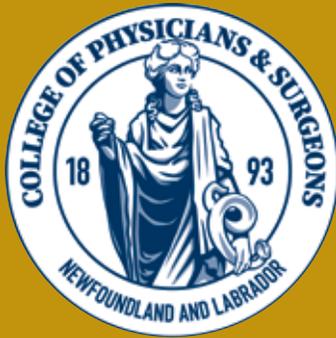


COMPLAINTS & DISCIPLINE UPDATE



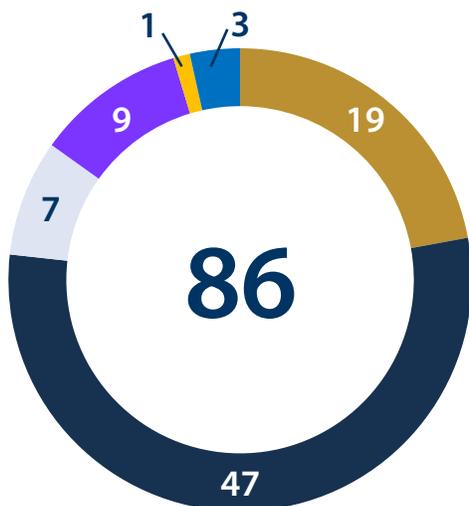
2020 REPORT

The *Medical Act, 2011*, requires the College of Physicians and Surgeons of Newfoundland and Labrador (CPSNL) to accept and process all written complaints against physicians licensed in this province.

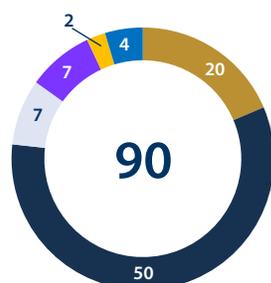
COMPLAINTS & DISCIPLINE UPDATES report on the College's complaints and discipline activities. They summarize cases in which the Complaints Authorization Committee (CAC) issues a caution /counsel, a publicized settlement was reached through the Alternative Dispute Resolution process, or a finding was made by the Adjudication Tribunal.

COMPLAINTS AUTHORIZATION COMMITTEE DECISIONS BY OUTCOME

(FILES CLOSED IN 2020)



2019 CAC DECISIONS BY OUTCOME



- Informal resolution ●
- Complaint dismissed ●
- Complaint dismissed with direction ●
- Cautions /counsels ●
- Referred to alternative dispute resolution (ADR) ●
- Referred to Tribunal hearing ●

Totals	2020	2019
Complaints received	63	77
Complaint files closed	86	90

FOUR WAYS TO IMPROVE YOUR PATIENT COMMUNICATIONS

1. Provide information clearly and simply.
2. Ask questions to confirm that a patient understands what you are communicating.
3. Be alert to non-verbal signs that a patient may *not* understand the information you're presenting.
4. Document the discussions you have with patients.

COMPLAINTS & DISCIPLINE UPDATE

DISCIPLINARY HEARING: Dr. Adekunle Owolabi

IN THE MATTER OF: Dr. Adekunle Owolabi
In a written decision dated January 8, 2021, an Adjudication Tribunal of the College of Physicians and Surgeons of Newfoundland and Labrador found Dr. Adekunle Owolabi, a general practitioner, guilty of professional misconduct in relation to a complaint filed by a patient on December 18, 2018.

At the time of the hearing, Dr. Owolabi did not hold a licence to practise medicine in the province, his previous licence having ended on November 26, 2018. The Tribunal accepted an agreed statement of facts as well as Dr. Owolabi's plea of guilty to the complaint.

According to the decision of the Tribunal, the patient attended appointments with Dr. Owolabi on November 19 and 20, 2018, with concerns relating to her mental health and symptoms of acute mental distress. When the patient advised Dr. Owolabi that one of her stressors was "nobody to have a tea or go for a walk," Dr. Owolabi replied that he could "go for coffee" or speak with her on the phone if she had nobody to talk to when in crisis. During the clinic appointment, Dr. Owolabi provided the patient with his personal cell phone number.

One hour following the appointment, Dr. Owolabi telephoned the patient but she did not answer. The following morning, Dr. Owolabi texted the patient indicating he regretted "telling you to be my friend" and that he "apologize[d] for his conduct from the bottom of my heart." He ended the text by asking the patient to forgive him. The patient did not reply. Dr. Owolabi then proceeded to attend at the patient's workplace, requesting to speak with her. The patient refused to speak with him.

At the time of Dr. Owolabi's clinical encounters with the patient, his licence contained a restriction which required a chaperone when seeing all female patients. During the November 19 and 20, 2018,

appointments with the patient, no chaperone was present in the examination room. An office assistant led the patient into the examination room and entered an adjacent office. The office assistant was seated in the adjacent office during the appointment but could hear and see the patient. The patient was not aware of, and did not consent to, the chaperone's presence.

The Tribunal found Dr. Owolabi's conduct was in violation of s. 4(oo) of the College's Code of Ethics which prohibits "inappropriate comments or questions reflecting a lack of respect for the patient's dignity or privacy." The Tribunal found that his conduct amounted to conduct deserving of sanction as defined in the *Medical Act*, 2011. The Tribunal ordered as follows:

1. The appropriate period of suspension is 2 months.
2. Dr. Owolabi's licence will be restricted to state that he shall not provide medical care to female patients unless a chaperone is present in the examination room for the entire patient encounter. This restriction will commence upon his return to the practice of medicine and will remain in place for a period of 24 months.
3. Prior to returning to the practice of medicine, Dr. Owolabi will execute documentation setting out the detailed terms and conditions of the chaperoning arrangement in a format developed by the College.
4. Dr. Owolabi shall pay the costs of the College in the amount of \$5,000.
5. The Registrar will publish a summary of the decision and the order of the Tribunal. A copy of the Adjudication Tribunal's complete decision will be provided to www.canlii.org in accordance with the College's By-Law 7.

The previous practice address of Dr. Owolabi:
Labrador West Health Centre Labrador City, NL.

COMPLAINTS & DISCIPLINE UPDATE

SETTLEMENT AGREEMENT: Dr. Brent Thistle

ALTERNATIVE DISPUTE RESOLUTION SETTLEMENT AGREEMENT: Dr. Brent Thistle is a medical practitioner licensed pursuant to the *Medical Act, 2011* to practise family medicine. On July 20, 2018, the Registrar of the College filed an allegation against Dr. Thistle in relation to allegations of harassment which were investigated by the Western Regional Health Authority and determined to have met the organization's definition of harassment.

Following an investigation of the allegation, the Complaints Authorization Committee of the College referred the allegation back to the Registrar for Alternative Dispute Resolution in accordance with s. 44(1)(a) of the *Medical Act, 2011*.

Dr. Thistle admitted that he engaged in unwelcome physical contact, unwelcome remarks of a sexual nature and unwelcome invitations to socialize with a medical resident. Dr. Thistle also admitted that he engaged in unwelcome physical contact and/or unwelcome remarks of a sexual nature with a medical resident and twelve other health care colleagues. Dr. Thistle acknowledged that his behavior constituted professional misconduct. In particular he acknowledged that his behavior was in violation of: The College's Standard of Practice: Professional Responsibilities in Medical Education; and The College's By-Law 5: Code of Ethics, s. 5(d): Persistent or egregious conduct towards professional colleagues which is contrary to the CMA Code.

Dr. Thistle and the College agreed to the following disposition of this allegation:

1. Dr. Thistle was reprimanded for his admitted professional misconduct.
2. Dr. Thistle's licence to practise medicine will be suspended for a period of two months.
3. Dr. Thistle must successfully complete, at his cost, the PROBE Ethics & Boundaries Course (or similar course as approved by the Registrar).
4. This summary will be posted on the College website.

WHAT ARE "CAUTIONS / COUNSELS"?

The Complaints Authorization Committee (CAC) issues a caution or a counsel when it finds reasonable grounds to believe a physician has engaged in "conduct deserving of sanction" (as defined in the *Medical Act, 2011*) but determines that a referral to a hearing is not warranted.

Most cautions/counsels are issued for one of these reasons:

- Failing to maintain the expected standard of practice "such as to indicate gross negligence or reckless disregard for the health and well-being of the patient" (as per the CPSNL Code of Ethics)
- A breach of the CMA Code of Ethics and Professionalism, often in respect to communication
- Persistent or egregious conduct toward colleagues
- Failing to appropriately document a patient encounter

CASE #1: Standard of Practice

A physician was counselled with respect to the expected standard of practice in the management of osmotic demyelination syndrome as a recognized complication of hyponatremia treatment.

The CAC retained an external consultant, who acknowledged that while treatment for hyponatremia is not straightforward or predictable, the physician's orders for the rate of sodium correction in this circumstance exceeded the recommendations for the patient's clinical presentation.

The Committee agreed that there were reasonable grounds to believe that the physician had not met the expected standard of practice in the area of medicine in which the physician was practising.

COMPLAINTS & DISCIPLINE UPDATE

CASE #2:

Timeliness for Preparing Report

A physician was counselled with respect to their lack of timeliness in providing a transfer letter to a patient's new physician.

The patient, who suffered from a chronic condition that required ongoing follow-up, requested a transfer letter be sent to the new physician in another province on three occasions over a period of five months.

The Committee agreed that there were reasonable grounds to believe the expected standard regarding preparing reports in a timely manner (currently, 90 days) was not met.

CASE #3:

Third Party Disclosure

A physician was cautioned with respect to disclosure of a patient's medical information to a third party, disclosure that was neither required nor authorized to be disclosed.

The Committee agreed that, in completing an independent medical examination for the purpose of assessing any limitations or restrictions, a physician must balance disclosing adequate information to inform the reader of any limitation or restrictions but avoid disclosing supplementary medical information.

The Committee agreed there were reasonable grounds to believe that the physician provided more information than was required about the condition of the patient, without the patient's consent or as required or permitted by law.

CASE #4:

Social Media Commentary (1)

A physician was cautioned and counselled with respect to public commentary on a social media platform. The physician, who self-identified as a

practising physician, encouraged members of the public to not comply with an order of the Chief Medical Officer of Health at a point in time when Newfoundland and Labrador was under a public health state of emergency.

The Committee agreed there were reasonable grounds to believe the physician did not comply with the CMA Code of Ethics and Professionalism, which requires physicians to "support the profession's responsibility to act in matters relating to public and population health, health education, environmental determinants of health, legislation affecting public and population health, and judicial testimony."

CASE #5:

Social Media Commentary (2)

A physician was counselled with respect to public commentary on a social media platform.

The physician self-identified as a registrant of the College and made public commentary in which the physician also self-identified as racist, sexist, and ableist.

The Committee noted that the College's Practice Guideline: Physician Use of Social Media indicates that the College expects physicians "to be vigilant in avoiding online situations which may be harmful to patients or professional colleagues and/or harmful to the reputation of the medical profession." It also recommends that physicians "avoid posting content that could be viewed as unprofessional."

The Committee agreed there were reasonable grounds to believe the physician did not comply with the CMA Code of Ethics and Professionalism, which requires physicians to "engage in respectful communications in all media" and to "take responsibility for promoting civility, and confronting incivility, with and beyond the profession."

COMPLAINTS & DISCIPLINE UPDATE

CASE #6: Dispensing Medications

A physician was counselled with respect to dispensing medication without proper packaging and labeling.

Committee members agreed that physicians who dispense medication must do so in accordance with the College's Standard of Practice: Dispensing Medications.

The Committee agreed that there were reasonable grounds to believe the physician did not follow applicable practices for dispensing medications.

CASE #7: Duty of Non-Abandonment

A physician was counselled with respect to the duty to not abandon patients in circumstances where the physician has a conscientious objection to the service requested by the patient.

The Committee agreed that physicians are permitted to act according to their conscience in the provision of medical services, but physicians must respond to the medical needs of their patient in a manner that provides the patient with appropriate and accurate direction to allow the patient to obtain information from another healthcare provider.

The Committee agreed there were reasonable grounds to believe the physician did not comply with the CMA Code of Ethics and Professionalism, which requires physicians to “act according to your conscience and respect differences of conscience among your colleagues; however, meet your duty of non-abandonment to the patient by always acknowledging and responding to the patient’s medical concerns and requests whatever your moral commitments may be.”

CASE #8: Compassionate Communications

A physician was counselled with respect to the duty to engage in a compassionate, understanding, and respectful manner in communications with a patient’s family members, especially in circumstances where a patient’s death is imminent.

The Committee agreed there were reasonable grounds to believe the physician did not comply with the CMA Code of Ethics and Professionalism, which requires physicians to “consider first the well-being of the patient; always act to benefit the patient and promote the good of the patient.”