



Professional Conduct Report 2023

College of Physicians & Surgeons of Newfoundland and Labrador

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2023 YEAR IN REVIEW

The College’s mandate is rooted in public protection and includes the enforcement of standards of conduct and competency for physician registrants. The *Medical Act, 2011*, requires the College to accept and process all written complaints received about current and formerly licensed physicians. The College is committed to ensuring the professional conduct process is accessible, efficient, and fair for all parties involved.

The Complaints Authorization Committee (“CAC”) oversees the College’s professional conduct activities. The CAC includes five elected or appointed physician representatives and two appointed public representatives. In 2023, the CAC held 10 meetings where its work included reviewing complaints filed by members of the public, stakeholders, and

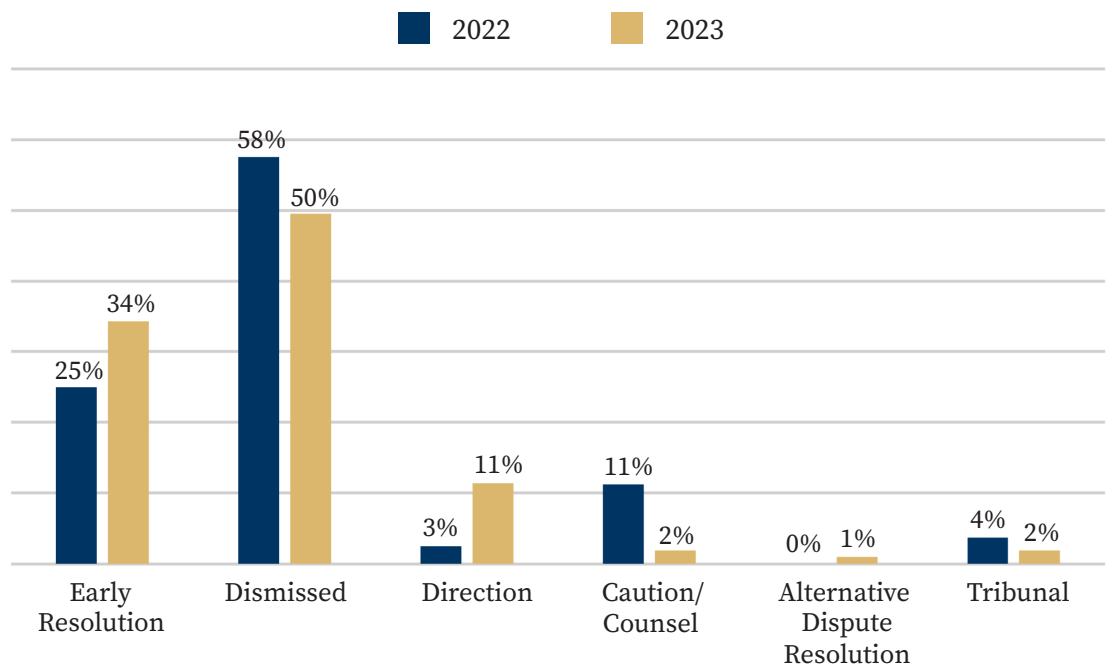
the Registrar, and making decisions on the identified issues of concern.

The volume of complaints increased in 2023 – 33% more complaints were received, as compared with 2022. Despite this increase, the median timeline for file closure was maintained at 11 months.

In 2023, the College maintained its quality improvement focus to make sure our processes resolved the concerns of complainants in a timely and satisfactory manner while ensuring the physician was treated fairly.

The College continued to develop its Early Resolution process through policy changes and staff training. In 2023, 34% of complaints were resolved using the Early Resolution process, an increase from 25% in 2022.

Decisions by Outcome: 2022 - 2023 Comparison



2023 YEAR IN REVIEW

The College also developed a new package of information to send to physicians when a new complaint is received, including information on what to expect in the process and resources to access for legal assistance and wellness support.

An important highlight of 2023 was the launch of the College's new **Compliment a Physician** initiative. It has resonated with the public, and physicians appreciate receiving positive feedback on the care they provide to their patients.

30

Patients provided positive feedback through the Compliment a Physician initiative

Complaints closed increased by

31%

Timeline for Early Resolution

2

months

Timeline for file closure

11

months

Complaints received increased by

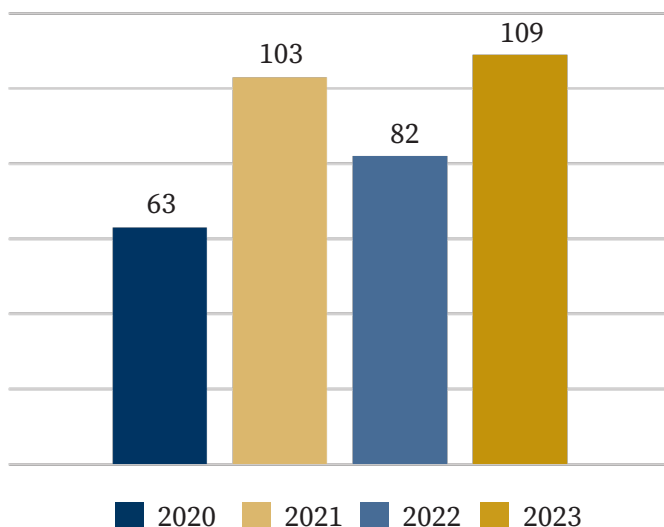
33%

Files closed through Early Resolution increased by

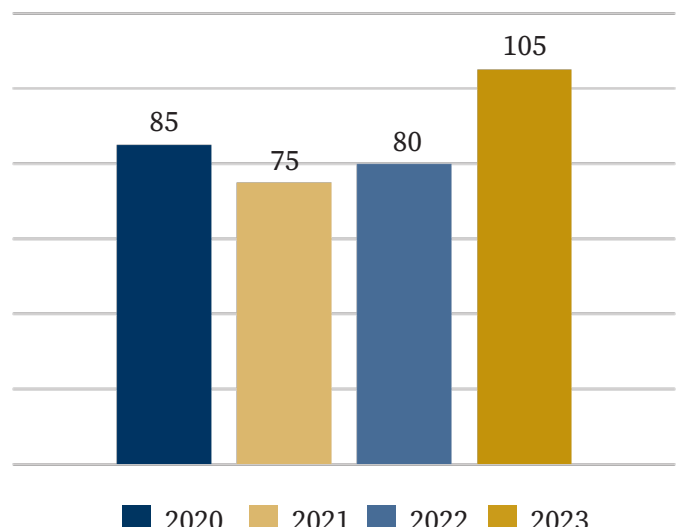
80%

Complaints Trends Year-Over-Year

Complaints Filed by Year



Files Closed by Year



STANDARDS & GUIDELINES

The College promotes high standards of medical practice by creating, reviewing, and regularly updating the Standards of Practice that physicians must follow and the Practice Guidelines which they should adopt.

The College generally reviews its Standards and Guidelines on five-year cycles, although some are reviewed on shorter cycles depending on the nature of their content. When areas for improvement are identified, the Standard or Guideline is updated. Increasingly, the College has been consulting the public, College registrants, and stakeholder organizations on proposed new and amended Standards of Practice (in draft) to hear their perspectives on the changes and to assess whether additional changes are needed.

Revised Standards & Guidelines

Prescribing & Dispensing of Medications

This Standard sets out the College's expectations for physicians who prescribe medication. It also sets out the limited circumstances in which a physician can dispense medications and the College's expectations for physicians who engage in this practice.

Medical Records Documentation & Management

Medical records contain valuable information about a patient's clinical history and interactions with healthcare providers. Ensuring that a patient's

medical record is complete, accurate, accessible, and securely stored contributes to the quality and continuity of medical care for the patient. This Standard sets out the College's expectations for physicians in creating and amending medical records. It also outlines the responsibilities of physicians who act as custodians of medical records to ensure confidentiality, appropriate access, and retention of records within their custody and control.

How to Amend a Medical Record

Paper Record - cross out the error, ensuring it can still be read, and note the date that you crossed it out. If you need to add information, clearly identify that the information is an addition to the record and note the date the addition was made.

Electronic Record - make a note within the relevant field or add an Addendum which details the error, the correction, and the date of the correction. If you need to add information, add it through a note within the relevant field or through an Addendum. Clearly indicate that the information is an addition to the record and note the date the addition was made.

Virtual Care

Evolving technology provides opportunities for new approaches to the practice of medicine through virtual care. This Standard details the expectations for physician's who provide virtual care to patients in Newfoundland and Labrador. For additional guidance, the College has also developed **Frequently Asked Questions (FAQ)** on Virtual Care.

STANDARDS & GUIDELINES

Closing or Taking Leave from a Medical Practice

The College expects physicians to take adequate measures to reduce the impact of their closure of practice or leave from practice on continuity of care for patients. This Standard sets out the steps required when contemplating a closure of practice or a leave of three months or longer from practice. For additional guidance, the College has also developed an **FAQ** on Closing or Taking Leave from a Medical Practice.

Conflict of Interest

Physicians have a legal and ethical duty to act in the best interest of their patients. This Standard sets out the College's expectations for avoiding and managing conflicts of interest. For additional guidance, the College has also developed an **FAQ** on Conflict of Interest.

Medical Assistance in Dying (MAID)

The College now recognizes the **Model Practice Standard for Medical Assistance in Dying (MAID)**, prepared by the MAID Practice Standards Task

Group and adapted by the College. The College also recognizes the Task Group's **Advice to the Profession** as additional guidance which physicians who provide MAID should be familiar with and follow, where applicable.

Medical/Surgical Procedures in Private Medical Facilities

This Standard sets out the College's expectations for physicians who perform medical or surgical procedures outside of a facility operated by Newfoundland and Labrador Health Services.

Physician Use of Social Media

Social media provides methods for information sharing in both a physician's private and professional life. This Guideline provides recommendations on the appropriate use of social media.

Withdrawal of Physician Services During Job Action

Physicians have the right to withdraw their services for job action under specific circumstances. This Standard sets out the College's expectations for physicians who are contemplating a withdrawal of services for the purpose of job action.

The College has also developed Standards of Practice or Practice Guidelines on the following topics:

- **Accepting New Patients**
- **Advertising**
- **Bloodborne Viruses**
- **Boundary Violations**
- **Chaperones**
- **Complementary & Alternative Medicine**
- **Consent to Treatment**
- **Continuity of Care**
- **Disclosure of Harm**
- **Duty to Report a Colleague**
- **Ending the Physician-Patient Relationship**
- **Independent Medical Examinations**
- **Opioid Prescribing for Opioid Use Disorder**
- **Physical Examinations**
- **Physician Treatment of Self, Family Members, or Others Close to Them**
- **Professional Responsibilities in Medical Education**
- **Uninsured Services**

2023 CASE SUMMARIES

Cautions and Counsels

Case 1: Breast Cancer Screening

A physician was counselled to review guidelines on follow-up care for patients who have had a previous breast cancer diagnosis and review their practice in respect of follow-up care for such patients to identify potential practice improvements.

The CAC noted that the patient had a previous diagnosis of breast cancer, and as such, it would be expected that her family physician would offer follow-up medical care in accordance with screening guidelines for patients with previous malignancies. Physician members of the CAC agreed that this would have included an annual mammogram, and as such, a requisition for a mammogram should have been sent in accordance with applicable guidelines.

Case 2: Altering Medical Records

A physician was counselled to comply with the College's expectations of physicians relating to the altering of medical records in their future practice of medicine.

The CAC noted that the physician made alterations, in the form of both additions and deletions, to the information contained in a patient's medical records for a clinic visit where a significant breakdown in the physician-patient relationship occurred. The CAC noted that these alterations were not made in accordance with the expected standard on amending a medical record. The physician acknowledged that they edited the record when responding to the allegation of the

patient and provided assurances to the CAC that they had since become better informed on the College's expectations in respect of altering records and will comply with these expectations going forward.

Settlement Agreements

Case 1: Failure to Provide Consistent Diagnostic Reporting

The Registrar of the College filed an allegation against a physician in relation to a report that they failed to provide consistent diagnostic reporting resulting in a large number of unreported diagnostic tests.

The physician admitted that they failed to report on Echo, EKG and Holter studies and that they failed to record any clinical information in a number of charts. They acknowledged that their care of these patients lacked skill or judgment, of a nature or to an extent that their practice should be restricted.

The physician agreed to only be permitted to return to the practice of medicine as the most responsible physician if they successfully complete an assessment of their knowledge, skills, and judgement by an assessor(s) deemed acceptable to the College. If the physician demonstrates that they have the requisite knowledge, skills, and judgment to return to the practice of medicine as the most responsible physician, the physician's Licence to Practice Medicine will contain a condition that they must be under oversight for a period of 12 months.

2023 DISCIPLINE HEARINGS

Hearings

Dr. Jan Dolezalek, Psychiatry

An Adjudication Tribunal of the College of Physicians and Surgeons of Newfoundland and Labrador has found Dr. Jan Dolezalek guilty of professional misconduct in relation to a complaint filed by the Registrar of the College.

The Tribunal released its written decision on February 20, 2023.

The Tribunal accepted an agreed statement of facts that was jointly prepared by the College and Dr. Dolezalek. The tribunal found the conduct of Dr. Dolezalek to be deserving of sanction as follows:

The Tribunal accepted Dr. Dolezalek's plea of guilty of professional misconduct in violation of section 4(h) of the College *By-Law No. 5: Code of Ethics*, which is conduct deserving of sanction under the *Medical Act, 2011*.

The Tribunal found that Dr. Dolezalek failed to apply and maintain standards expected by the profession in the practice of psychiatry by having an inappropriate relationship with a former patient within a short duration after ending their treatment relationship.

The Tribunal accepted a submission for sanctions that was jointly prepared by the College and Dr. Dolezalek. It then ordered that:

1. The Tribunal issued a reprimand to Dr. Dolezalek.

2. Dr. Dolezalek's Licence to Practice Medicine is suspended for a period of 10 months, to commence on October 20, 2022.
3. Dr. Dolezalek successfully complete a professional development course on the subject of ethics and professionalism approved by the College before returning to the practice of medicine.
4. Dr. Dolezalek pay the hearing costs of the College in the fixed amount of \$10,000.

Dr. Hugh Mirolo, Psychiatry

An Adjudication Tribunal of the College of Physicians and Surgeons of Newfoundland and Labrador has found Dr. Hugh Mirolo guilty of professional misconduct in relation to a complaint filed by the Registrar of the College.

The Tribunal's written decision was released on March 28, 2023.

The Tribunal accepted an agreed statement of facts that was jointly prepared by the College and Dr. Mirolo. The tribunal found the conduct of Dr. Mirolo to be deserving of sanction as follows:

In December 2019, the Quality Assurance Committee of the College (the "Committee") placed the following conditions on Dr. Mirolo's licence:

- i. Classify all patients' disorders in accordance with the DSM-5 and document same;
- ii. Use a standard mental status exam as part of patient examination;

2023 DISCIPLINE HEARINGS

- iii. Communicate with medical colleagues in a standard and comprehensive manner; and
- iv. Document both the clinical review and all off-label uses of medications, as well as the obtaining of informed consent from patients in respect of all off-label uses.

In December 2020, Dr. Mirolo participated in a Peer Practice Assessment of his practice for the period of July – December 2020. The assessor concluded that Dr. Mirolo did not comply with the conditions placed on his licence in December 2019.

Dr. Mirolo acknowledged that between July – December 2020:

- i. He did not use DSM-5 diagnoses in his practice and did not document any DSM-5 diagnoses in his patient charts;
- ii. He did not use a standard mental status exam as part of his examination;
- iii. His medical documentation did not use standard medical terminology which is likely to be comprehensible by medical colleagues outside of the field of practice of neuropsychiatry; and
- iv. His medical records did not document the specific informed consent of his patients to the off-label use of medications.

The Tribunal accepted Dr. Mirolo's plea of guilty of professional misconduct in violation of section 2(5) of the College *By-Law No. 5: Code of Ethics*, which is

conduct deserving of sanction under the *Medical Act, 2011*. The Tribunal found that Dr. Mirolo contravened or failed to comply with a term, condition, restriction or limitation on a licence or registration with the College.

The Tribunal accepted a submission for sanctions that was jointly prepared by the College and Dr. Mirolo. It issued a reprimand to Dr. Mirolo and ordered that:

1. Dr. Mirolo must successfully complete a professional development course on the subject of medical documentation and record-keeping approved by the College within 6 months of the Order of the Tribunal.
2. Dr. Mirolo must pay the hearing costs of the College in the fixed amount of \$10,000.
3. The College Registrar publish a summary of the Tribunal's decision in accordance with s. 50(3)(e) of the *Medical Act, 2011* and the applicable By-Law of the College.

Do you have questions about our Professional Conduct process?

If so, please contact the Professional Conduct Department by email at: complaints@cpsnl.ca