

**COLLEGE OF PHYSICIANS AND SURGEONS OF NOVA SCOTIA**

**SUMMARY OF DECISION OF INVESTIGATION COMMITTEE “B”**

**RE: Dr. SAIRA MALIK**

**OVERVIEW**

Between September, 2013 and January, 2014, the College received three complaints about Dr. Malik, a family practice physician. While each of the three complaints dealt with separate matters, the complaints collectively raised significant concerns about Dr. Malik’s interaction with and care of her patients, her practice of medicine and her response to the regulatory process.

Each of the three complaints is briefly outlined below.

**Patient A Complaint:** This complaint alleges that Dr. Malik:

- refused to provide care to the complainant’s partner because he suffered from ADD;
- behaved inappropriately towards staff in the presence of patients;
- verbally abused the complainant’s partner;
- did not communicate effectively due to language difficulties;
- simply ignored the complainant at times; and
- refused to accept the complainant’s statement that she did not have any addictions.

Dr. Malik responded that her capacity to respond was limited by the fact that the complainant and her partner were not actually her patients and she only had limited notes from a “Meet and Greet” appointment. She says she uses Meet and Greet appointments as an opportunity to allow prospective patients to make a decision whether to become her patients. Her notes of the encounter indicate that she said she may not be able to help with ADD due to her lack of experience, not that she refused to take the complainant’s partner as a patient. Although Dr. Malik stressed her limited ability to comment, she did not refrain from making some inappropriate personal comments regarding the Complainant.

As to the allegations about yelling at her staff, she stated that this was not Patient A’s business. She also felt that Patient A was racist and “crazy”. She also offered more personal comments on Patient A’s financial management skills, employability and unhappiness.

The Committee found that Dr. Malik was defiant during her interview with the Committee, appeared to be cherry-picking patients, and turned away both Patient A and her partner, notwithstanding the fact that they needed a doctor.

**Patient B Complaint:** This complaint raises questions of whether the pre-natal care provided by Dr. Malik was complete and met the quality of care standards expected in the pre-natal context. Specifically, Patient B alleges that Dr. Malik failed to provide appropriate care in relation to an incompetent cervix resulting in the necessity of a medical procedure known as a rescue cerclage, and also suggests that Dr. Malik spoke to her disrespectfully.

Her complaint outlines that she spoke to Dr. Malik on several occasions about her past pregnancy history of incompetent cervix diagnosed at 25 weeks, with resulting bed rest. She says she raised the question at each visit and that Dr. Malik dismissed her concerns stating that each pregnancy was different, it was too early to be concerned, the diagnosis should wait until her routine ultrasound, as opposed to undergoing an earlier ultrasound. The routine ultrasound was also performed later than usual.

In her response Dr. Malik indicates that Patient B had told her nothing about her previous history of incompetent cervix and that she had reported having had a full-term normal delivery. Dr. Malik said that if Patient B had said anything about the cervical issue, it would have been noted on the history sheet of her chart, as well as on the various individual entries. Likewise, she says she would have made a notation on the ultrasound referral had she been made aware of this issue.

In her interview with the Committee, Dr. Malik questioned whether Patient B was in hospital for eight weeks as she asserted. She accuses Ms. Patient B of lying, when she says that Dr. Malik spoke to her disrespectfully and that her entire complaint is nothing more than lies intended to be cruel to Dr. Malik.

**Patient C Complaint:** This complaint raised a number of issues, namely:

- Although Dr. Malik will not see patients on an urgent basis, she refused to follow up on lab work ordered by walk-in clinic staff;
- Dr. Malik refused to do prescription refills over the phone during the bus strike;
- Dr. Malik denied having receiving lab reports which the complainant was told had been sent, with a resulting refusal to provide treatment based on lab investigations;
- Dr. Malik told her a specialist had diagnosed gout, when he had told the complainant she had fibromyalgia;
- Dr. Malik embarrassed the complainant by making her count her tablets in the waiting room;
- Dr. Malik failed to respect patient privacy, by consulting and examining with an open door;
- Dr. Malik yelled at patients and staff;
- Dr. Malik required the complainant to sign a contract in order to receive prescriptions for medication.

With regard to the walk-in clinic issue, the evidence was that Patient C, who suffers from epilepsy, had experienced severe dizzy spells early in October. She attended a Walk-in Clinic due to her knowledge that Dr. Malik did not do emergency visits. The Walk-in physician sent her for blood work which showed low Phenobarbital levels. When Patient C asked Dr. Malik about the blood work at the next visit in November, Dr. Malik became angry and denied any knowledge of the blood work. No follow-up was offered. In January, Patient C had her first seizure in 33 years.

Dr. Malik admitted she refused to follow patients in respect of treatment initiated by physicians at walk-in clinics or ER's, as she considers this responsibility that of the treating physician. The Committee was of the view that the physician should follow up on abnormal test results regardless of the source of the lab work. This falls within the primary physician's responsibility for quality of care. Dr. Malik's explanations for her conduct were not satisfactory and demonstrate a lack of appreciation of the issue

Dr. Malik stated that whenever a patient complains against the doctor, the "rule of thumb" is to make the doctor look as bad as possible and that the comments about her "screaming" fall into that category. Dr. Malik stated she cannot change her personality and does not care what the patient thinks.

As to the privacy issues, Dr. Malik discounted them by saying that the examination room was at the end of the hall, so door closure was irrelevant. While she did not have curtains, if she did not leave the examination room while the patient was disrobing, she would not necessarily look at them. With regard to the issue of draping, she stated that 98% of patients do not care if they have a sheet to drape themselves with and if they do, she said they can get themselves one from the drawer.

With respect to Patient C's concern that Dr. Malik requested she sign a contract with respect to medications, the Committee noted this contract involved restricted medications, and it was appropriate for Dr. Malik to request an agreement from the patient with respect to the use of these medications.

Overall, the Committee had concerns about Dr. Malik's practice in relation to follow-up with patients who have seen other physicians, her behaviour with patients, staff and the committee, and her apparently cavalier attitude about confidentiality and patient privacy.

### **Steps taken by Investigation Committee**

In addition to hearing from Dr. Malik and reviewing patient charts and other written material, the Committee ordered two audits of Dr. Malik's practice. The first audit reviewed Dr. Malik's pre-natal practices. Apart from concerns identified in the case of Patient B the audit showed a satisfactory standard of competence in the other records that were reviewed.

The second audit was a general practice audit involving a random selection of patient charts.

This practice audit identified the following areas of concern:

- Records were only about 70% legible and it was not possible to determine whether proper record keeping practices were being carried out;
- Some inadequacies in charting were noted, for example:
  - full up-to-date patient profiles were not in evidence in some cases;
  - current medications were difficult to determine from a review of the charts;
- Referral letters did not always contain full histories and medications;
- The 1985 version of the Rourke Baby Record was included in infant charts, instead of the more up to date version, which is readily available at no cost on the Rourke website;
- Based on random file selection, there was one instance of improper immunization catch-up schedule being followed;
- Privacy concerns exist due to the fact that conversations in the examination room can be readily overheard in the waiting area;
- Medical records and file folders are re-used, which could result in record confusion or privacy breaches;
- Dr. Malik does not have regular specimen delivery and relies on her patients to take their own specimens to the lab;
- There is no temperature gauge on the vaccination fridge;
- There is no medication sample storage area;
- Dr. Malik noted that she experiences technical difficulties in relation to the receipt of faxed patient records and that she has no solution for this problem; and
- Dr. Malik's intake process for new patients involves a "Meet and Greet". At this appointment, Dr. Malik reviews the client's medical concerns and introduces them to the rules of the office. Dr. Malik does not bill MSI for these meetings.

### **Conclusions of Investigation Committee**

After reviewing all of the materials before it, including the audits, the Committee has noted a number of concerns in relation to Dr. Malik's behaviour and practice. These include:

- Lack of professionalism towards the complaint process. For example, her conduct towards the Investigation Committee was disrespectful, bellicose and inappropriate;
- Dr. Malik has been non-compliant or slow to comply with requests from the College;
- Dr. Malik has spoken in a disrespectful manner about patients in both written correspondence and during interviews with the Committee;

- Dr. Malik's patient intake process raises concerns that she is "cherry-picking" patients, contrary to the College's Policy Regarding Accepting New Patients;
- Dr. Malik's office space and behaviour raise concerns that she is not appropriately safeguarding client confidentiality;
- Dr. Malik's office space and behaviour indicate that she is not always respectful of patient privacy, for example staying in the room while they disrobe, not always providing exam sheets and draping, and leaving her door open during examinations;
- Refusing to provide follow-up with her patients where treatment for a condition is initiated by another physician in a walk-in clinic or the ER;
- Yelling at staff in the presence of patients and speaking disrespectfully about staff to her patients;
- Dr. Malik's files disclose a number of deficiencies in record-keeping: only 70% legible; patient profiles not always up to date; current medications not easily determinable from chart review;
- Dr. Malik's referral letters did not always contain full histories and medications;
- Dr. Malik was utilizing an out-of date patient protocol for infants; and
- A number of other conditions and practices pose a threat to patient care, safety, confidentiality and privacy. These include:
  - not utilizing a regular specimen delivery service,
  - re-using paper materials for charting,
  - absence of a temperature gauge in the vaccination fridge,
  - absence of a sample storage area,
  - inadequate faxing technology,
  - absence of a sound-proof examination area.

It is noted that Dr. Malik does not agree or acknowledge many of the issues raised. Some of her answers were illogical and contradictory. The Committee also found that Dr. Malik lacked insight and was disrespectful and combative in the investigation process.

## **DISPOSITION**

The Committee directs the following:

Dr. Malik is **reprimanded** for:

1. failing to provide on-going care to patients who return to her and request longitudinal care or treatment, after they have received episodic care at a walk-in clinic or ER, notwithstanding that the treatment in question was initiated by another physician. This obligation of the primary physician is not inconsistent with, but supplements the obligations of Walk-in Clinicians under the Guidelines on Standard of Care for Walk-In Clinics, May, 2010.
2. refusing or discouraging patients on inappropriate grounds, contrary to the Policy Regarding Accepting New Patients, October, 2011 and s. 17 of the CMA Code of Ethics;
3. failing to obtain an appropriate obstetrical history, specifically failing to identify and act upon a history of a previously incompetent cervix in a pregnant patient;
4. failing to maintain adequate medical records respecting her patients;

5. communicating inappropriately with office staff in the presence of patients;
6. failing to maintain the privacy of patients;
7. using an out of date patient protocol for infants;
8. failing to use or have adequate office space, equipment or services, including:
  - o not utilizing a regular specimen delivery service,
  - o re-using paper materials for charting,
  - o absence of a temperature gauge in the vaccination fridge,
  - o absence of a sample storage area,
  - o inadequate faxing technology, and
  - o absence of a sound-proof examination area;
9. communicating inappropriately with and about patients;
10. communicating inappropriately with College staff and the Investigation Committee.

In addition to this reprimand, Dr. Malik is required to comply with the **following conditions**:

- a. Dr. Malik is required to take the next available College of Physicians and Surgeons of Ontario Medical Record Keeping Course at her expense. In the event that Dr. Malik does not register for the next offering of this course or successfully complete it, her licence to practice medicine will be suspended pending successful completion of the course;
- b. Dr. Malik must successfully complete a program approved by the College's Medical Director of Physician Performance designed to address Dr. Malik's communication style, disrespectful attitude, and generally unprofessional behaviour. Dr. Malik shall be responsible for the costs of such program;
- c. Dr. Malik shall participate in a practice audit within 6 months of the date of this decision, at her expense, designed to review the deficiencies identified in this decision;

In addition, Dr. Malik is counselled :

- (i) to review ss. 31 and 34 of the CMA Code of Ethics regarding patient privacy and confidentiality and to take whatever steps are necessary in respect of her physical office premises and practices to ensure that patient privacy and confidentiality are protected;
- (ii) to review and follow the Policy Regarding Disruptive Behaviour by Physicians, May, 2013, the Policy Regarding Physician Cooperation with the College, May, 2014, and s. 2 of the CMA Code of Ethics; and

- (iii) to review and follow the Guidelines for Physicians Regarding Referral and Consultation, March, 2014.

Finally, Dr. Malik is required to pay **costs** to the College in the amount of \$5000.00, as a contribution toward the College's costs in the investigation and resolution of this matter. These costs shall be paid in two equal instalments, with the first instalment due by December 31, 2014, and the second instalment due no later than December 31, 2015. Failure to make payment in accordance with this paragraph will result in the immediate suspension of Dr. Malik's licence to practice medicine.

In ordering the above disposition, the Committee took into account Dr. Malik's previous history with the College where on four occasions she was either counselled or cautioned with respect to breaches of patient confidentiality, attitude, and failure to follow required policies regarding acceptance of new patients.

The Committee believes that the disposition outlined above reflects the serious concerns of the Committee with regard to both Dr. Malik's behaviour and the practice issues uncovered during the investigation, while at the same time recognizing that aside from the individual incidents identified in the complaints and the practice review, no overall pattern of incompetent medical skills was identified.

Dated at Halifax, Nova Scotia this 13th day of January, 2015

Dr. Keri McAdoo, Chair

Investigation Committee "B"