COLLEGE OF PHYSICIANS AND SURGEONS OF NOVA SCOTIA

SUMMARY OF DECISION OF INVESTIGATION COMMITTEE "D"

Dr. Deanna Swinamer

Investigation Committee "D" of the College of Physicians and Surgeons of Nova Scotia (the College) concluded its investigation into a complaint against Dr. Swinamar by Decision dated March 10, 2017. The Investigation Committee reached agreement with Dr. Swinamar with respect to the disposition of the complaint. A summary of the complaint and its disposition appears below.

SUMMARY OF COMPLAINT AND RESPONSE:

Dr. Swinamer is a family physician, licensed to practise medicine in Nova Scotia since 1999.

In August 2014, Dr. Swinamer encountered Mrs. X, an acquaintance and the then wife of Patient X. Mrs. X raised concerns about her husband. Specifically, she felt he likely had significant ADHD. He had great difficulty in completing most tasks, was often disorganized and was unable to complete his work on time. He was often restless and fidgety.

Dr. Swinamer recommended that Patient X see his physician to discuss his symptoms. Mrs. X explained that she had tried to encourage him to do so but he had refused. Dr. Swinamer sensed that Mrs. X was worried about her husband and that his situation was desperate. She indicated to Mrs. X that she could give a few samples of Dexedrine with the hope that he would then agree to see a doctor. Dr. Swinamer indicated that if Patient X was agreeable she would be willing to see him as a patient in her office.

Dr. Swinamer reports Mrs. X told her she spoke with Patient X and he was willing to try Dexedrine. Dr. Swinamer gave Mrs. X 10-12 tablets of Dexedrine in a bottle with instructions to take one each morning.

Dr. Swinamer reports this is the first and only time she has ever given sample pills to anyone for whom she had not first completed an assessment. With the benefit of hindsight, Dr. Swinamer recognizes that it was a lapse in judgment. Dr. Swinamer assures the Committee that she recognizes she should have not given sample pills to Mrs. X for Patient X.

Dr. Swinamer explained that Patient X presented to her office on September 4, 2014 as a new patient. During the appointment, they discussed the samples provided. Patient X indicated that he found them very helpful in improving his ability to focus and concentrate on tasks. Dr. Swinamer reports Patient X did not complain of any side effects.

Dr. Swinamer says it is her usual practice to obtain a full history, including childhood symptoms of ADHD. In this instance, she has no specific recollection of doing so. Dr. Swinamer reports she did discuss Patient X's alcohol abuse history and reviewed the standard diagnostic questionnaire that she routinely uses "Adult ADHD Self Report Scale (ASRS-v1.1) Symptom Checklist." Dr.

Swinamer reports Patient X's responses indicated he most likely did have ADHD.

Dr. Swinamer reports she understood Patient X agreed with this assessment and that he had responded "yes" when asked if he wanted medication to treat the disorder. Dr. Swinamer reports she explained the side effects of Dexedrine including anxiety, insomnia and decreased appetite.

Dr. Swinamer says during the appointment, Patient X indicated he did not have any money. Dr. Swinamer suggested he contact Social Services for financial assistance and that she would be willing to complete the necessary forms. Dr. Swinamer says she also recommended a referral to a Mental Health Clinic for additional diagnostic clarification and psychological/psychiatric support in relation to ADHD. Dr. Swinamer made that referral the same day but does not know if Patient X accessed the service as she received no correspondence from the Mental Health Clinic.

At the end of the appointment, Dr. Swinamer wrote a prescription for Dexedrine and says that she advised Patient X to start with 15 mg po BID and that he could increase to 30 mg twice a day as tolerated. Dr. Swinamer reports that although she meant to write the prescription for "15 mg po BID with increases as tolerated" she now realizes she wrote 2 x 15 mg po BID.

Dr. Swinamer asked Patient X to make a follow-up appointment in 2-3 weeks, however, he did not do so.

Dr. Swinamer reports that when she suggested to Mr. X that he contact Social Services to obtain the blue forms, he was not familiar with this process. Mr. X dropped off social services forms for her to complete in November. Dr. Swinamer filled out the forms and faxed to the Social Services office on November 20, 2014. After she completed the forms, Dr. Swinamer asked her staff to contact Mr. X to inform him the forms had been sent and to ask him to make a follow-up appointment.

The samples that Dr. Swinamer gave to Patient X were unused Dexedrine that another patient had left in her office. Dr. Swinamer says that her normal practice is to tell patients to return unused medications to the pharmacy for proper disposal. With respect to giving medication to Patient X who was an alcoholic in recovery, Dr. Swinamer reports that she was limited in what she could prescribe because of his financial situation as Dexedrine was one of two options covered by Social Services.

Patient X is concerned that Dr. Swinamer discussed his medical health on two separate occasions without his knowledge or permission with his former wife. He is also concerned that this conversation did not take place in an office setting.

Patient X also reports that Mrs. X did not discuss the trial of drugs with him prior to procuring the pills from Dr. Swinamer. When Mrs. X did give Patient X the pills, Patient X states she told him he was not to tell anyone about the drugs. Patient X says he only took the pills in good faith and under duress to appease his then wife.

Patient X reports that he noticed an increase of energy, alertness and more focus on his work. He also experienced increased heart rate and was more anxious and short-fused. At the end of the trial

of pills his coping skills diminished and he felt he was becoming depressed and hitting rock bottom; which only added to his anxiety. Patient X says the medication caused him to have side effects which resulted in erratic behavior.

Patient X says that he only agreed to see Dr. Swinamer after three days of confrontation with his wife.

Dr. Swinamer does acknowledge that she did not offer any other treatment options but says that this was due to the fact that Patient X self-reported that the sample Dexedrine was having a positive effect. Dr. Swinamer reports that she did not discuss how to wean off Dexedrine as she wanted to see him in follow-up. She says that weaning would have been discussed with him at the relevant time.

Dr. Swinamer reports she was unaware that this medication caused side effects which could lead to erratic behaviour. Dr. Swinamer reports that she does not know if Patient X actually took the Dexedrine she prescribed. She also has no knowledge of any side effects after the September 4, 2014 appointment as Patient X did not return for follow-up.

CONCERNS/ALLEGATIONS OF COMPLAINANT:

Patient X alleges that Dr. Swinamer dispensed a controlled drug to his ex-wife before properly assessing and diagnosing him with ADHD. Patient X also alleges Dr. Swinamer prescribed him the maximum dose of Dexedrine and did so without an official titration or follow up plan to assess how he was coping on the drug.

CONCERNS OF COMMITTEE:

In this matter, after reviewing all available information, the Committee identified the following concerns arising from this complaint:

1) Dr. Swinamer prescribed Dexedrine, a controlled substance used to treat ADHD, without appropriately assessing a patient.

2) Dr. Swinamer did prescribe an initial dose of Dexedrine above an accepted starting dose. It does however appear that she did attempt to provide follow-up assessment.

3) Dr. Swinamer agreed to complete community services forms for Patient X without appropriate assessment and access to past medical documentation regarding Patient X's health.

DISCUSSION:

During the course of the investigation, the Committee reviewed the expert reports provided by both Dr. Swinamer and Patient X. The Committee was in agreement with some of the concerns outlined in the complainant's expert opinion report:

"A psychiatric medication, such as amphetamine, should only be initiated upon the completion of a proper diagnostic assessment. As demonstrated in the prior section, I believe that this may not have been done."

The Committee also agrees that failing to gradually titrate the dose upward and starting with the maximum dose was extremely careless. However, the Committee is not in full agreement with this expert's statement that Dr. Swinamer did not consider Patient X's history of alcohol abuse. This expert relied on information given by Patient X and did not appear to have access to Dr. Swinamer's medical notes at the time the statement was written. As per Dr. Swinamer's medical record note of September 4, 2014, she did document that Patient X had attended Crosby House for alcohol addiction and that he was currently doing okay and attends Alcoholics Anonymous regularly. During Dr. Swinamer's interview, she also explained to the Committee that she had completed continuing education on Attention Deficit Disorder (ADD) and one of the co-morbidities of Attention Deficit Disorder is substance abuse.

In the expert report obtained by Dr. Swinamer and her legal counsel, this expert also speaks to the correlation of prescribing to those with Substance Use Disorders.

"The statement about this medication being contraindicated is somewhat misleading. This medication is prescribed with caution in Substance Use Disorders because of the potential risk for abuse and diversion. There are no absolute contraindications to prescribe this medication for patients who are not actively using substances. Actually, stimulants are commonly prescribed in co-morbid ADHD and Substance Use Disorders to improve success in those conditions since many patients are actually self-medicating with illicit substances and alcohol."

This statement made by this expert contradicts the information provided by the complainant's expert which states:

"According to Health Canada and US FDA monographs for Dexedrine, it is clearly stated that Dexedrine is contraindicated in people with alcohol abuse disorder. This is to say, the manufacturer of the medication and government regulators state that Dexedrine is NOT to be prescribed to people with a history of alcohol abuse. Patient X never should have been given or prescribed Dexedrine."

The complainant's expert further states:

"Based on Patient X information, it appears that federal and provincial regulations were contravened to obtain Dexedrine for him as a 'trial sample'. Patient X stated that his wife received from Dr. Swinamer a 'used' bottle with ~14 capsules of Dexedrine 5 mg in it. According to him, it was understood by Dr. Swinamer and his wife that this supply was to be given to Patient X and that Patient X was not to speak about this to anyone."

In a second report submitted to the College by Patient X, his expert reiterates his concerns on this issue:

"The statements indicate that there were two meetings, one that was planned for the surreptitious provision of another patient's controlled drug and the second to give her the controlled drug. In this situation, Dr. Swinamer would have had sufficient time to reflect on the legal and ethical implications of her intentions. These circumstances bring about a number of questions and concerns. Did she refer to the medication as a sample or did she immediately disclose to Mrs. X that the Dexedrine SR was originally for and was previously in the possession of another patient? Why had she kept the bottle of the controlled drug rather than following her usual practice of telling patients to return the supply to the pharmacy, which in [sic] the same building for proper disposal and record keeping?"

The Committee agrees that Dr. Swinamer did have sufficient time to reflect on the legal and ethical implications of her intentions before she chose to give the medication to Mrs. X. The Committee is also concerned that Dr. Swinamer's decision to provide medication was made with regard to her personal relationship with Mrs. X and that she trusted the information Mrs. X provided to her. This expert quotes the Canadian Medical Association's Code of Ethics for physicians which states *"resist any influence or interference that could undermine your professional integrity."*

With respect to diagnosing Patient X with ADHD at the follow-up appointment, the Committee agrees with the physician's expert report stating:

"*The note was sufficient from a clinical point of view. In hindsight [sic], documentation of a screening with regard to other psychiatric disorders like anxiety and depression would've been welcomed but the main complaint was focused…"*

The Committee acknowledges Dr. Swinamer's efforts to refer Patient X to Community Mental Health and recognizes the length of time it takes for an appointment to be scheduled after a referral is made. The Committee also acknowledges the physician's expert's statement that it is unacceptable to withhold treatment until the patient is seen by psychiatry.

However well intentioned, it is clear to the Committee that Dr. Swinamer's decision to treat Patient X was inappropriate on a number of levels. The Committee found that Dr. Swinamer inappropriately dispensed Dexedrine without appropriate assessment and diagnosis of the patient. The Committee has also found that Dr. Swinamer prescribed an initial dose of Dexedrine above an accepted starting dose. However, it does appear that she did attempt to provide follow-up assessment to Patient X but he declined to return to the clinic for this purpose.

The Committee was also concerned with Dr. Swinamer's decision to complete forms for social assistance for Patient X despite Patient X not returning for a follow-up appointment. It does not appear Dr. Swinamer obtained Patient X's previous medical chart for reference and had only seen Patient X as a patient on one occasion prior to completing forms.

In written submissions to the College, Dr. Swinamer does recognize that her decision to treat Patient X without assessing him was a lapse in judgment. Dr. Swinamer has also indicated that she recognizes she should have not given sample pills to Patient X.

Dr. Swinamer appears to have significant remorse regarding the incident and appears to have

insight to prevent a reoccurrence of this behavior. During her interview with the Committee, Dr. Swinamer stated she has since taken a course on safe opioid prescribing and plans to take a boundaries course in the near future.

DECISION:

In accordance with clause 99(5)(f) of the regulations under the *Medical Act*, the Committee has determined there is sufficient evidence that, if proven, would constitute professional misconduct on the part of Dr. Swinamer, of such a kind as to warrant a licensing sanction.

Rather than refer the matter to a hearing, the Committee has determined that the matters can be resolved with the consent of Dr. Swinamer to the following:

> Dr. Swinamer is **Reprimanded** for inappropriately prescribing Dexedrine, a medication to treat ADHD without appropriate assessment of a patient. She is also reprimanded for inappropriate dispensing by way of providing Dexedrine previously returned by another patient to the complainant.
>
> Dr. Swinamer is further **Cautioned** for completing social assistance forms without appropriate assessment and follow-up of the patient.

The Committee acknowledges that Dr. Swinamer has since taken the Safe Opioid Prescribing course and has attended a boundaries course at her own cost.

In addition to the Reprimand, pursuant to clause 99(5)(c) Dr. Swinamer has provided the College with:

1. Proof of attendance and completion of the Understanding Boundaries course at Western University;
2. Proof of attendance and completion of the Safe Opioid Prescribing course.

Dr. Swinamer also agrees to contribute an amount toward the College's costs in this matter, which shall include payment for the audit and the expert opinion.

Dr. Swinamer has agreed to accept this disposition.