

Re: Policy Change: Access to third party medical reports

Since the Supreme Court of Canada issued its decision in *McInerney vs. MacDonald* in 1992, it has been recognized that with minor exceptions patients have a right of access to their medical records, including documentation received from other physicians. What was not so clear from the decision was whether this reasoning applied to patients examined by physicians at the request of third parties such as insurance companies.

While this may not constitute a traditional physician/ patient relationship, the third party physician is bound by the same ethical and professional responsibilities as other physicians, and patients routinely disclose personal and private information to these physicians and submit to physical examinations.

Until now, it has been the policy of the College of Physicians and Surgeons of Nova Scotia and some other licensing authorities to distinguish these types of relationships from traditional physician/ patient relationships and not to recognize a patient right of access to these reports. Council has recently reviewed this policy, noting that the patient is required to disclose personal information and to submit to examinations and that this constitutes a form of physician/ patient relationship. Council has concluded that there is no justification for restricting patient access to records and reports arising from examinations conducted for third parties.

The College of Physicians and Surgeons of New Brunswick adopted a similar change in policy a few years ago, recognizing that in terms of patient access, third party reports should be treated the same as any other medical records. The College in New Brunswick has reported no negative repercussions relating to the change in policy.

The Nova Scotia College recognizes that physicians who conduct third party examinations will need time to advise the third parties of the change in policy. For this reason, the policy will not come into effect until March 1, 2000. Physicians will no longer be able to agree to restrictions on the disclosure of third party medical reports to the individuals assessed at the request of a third party. Physicians are urged to relay this information to all third party agencies they deal with as soon as possible.

The following amendment to A Physician's Guide to Medical Records will come into effect on March 1, 2000. The Guide, which was distributed to all members in late 1998, can be viewed by clicking the following link: <http://www.cpsns.ns.ca/guidetomedrec.html>

8.4 Third Party Reports

- *Physicians preparing reports for third parties (eg. insurance companies, Workers' Compensation) are required to comply with the Canadian Medical Association Code of Ethics (and adopted by the College of Physicians and Surgeons of Nova Scotia in May, 1997) when dealing with patients.*
- *Patients should be informed of the purpose of the examination and the way it will be conducted. The patient must be advised in advance that the prepared report will be disclosed to the third party requesting the report as well as to the patient if so requested by the patient.*

- *A physician who discovers, during the third party examination, a significant medical condition requiring treatment is responsible for ensuring that this is disclosed to the patient, with a recommendation to seek treatment.*
- *In terms of patient access to medical records, reports prepared or records relating to examinations conducted at the request of a third party are considered the same as any other medical records. The physician must allow the patient access to these reports if requested, subject to the same conditions applicable to other medical records. This does not apply to situations where the physician has no patient contact and offers an opinion based on pre-existing records.*

From Nova Scotia College of Physicians and Surgeons Web site.

<http://www.cpsns.ns.ca/Fall99A.htm#4>