



# College of Pharmacists of Manitoba

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## Professional Development Program: Lessons from Complaints: Trends and Expectations

### Preamble:

On behalf of the College and the members of the Complaints Committee we would like to thank those who took the time to participate in this Professional Development Program. The intent of this program was to provide members with a better understanding of the Complaints Resolution Process, using several real examples the Committee has encountered, to illustrate the many steps involved in considering either informal concerns or formal complaint matters. Recognizing every scenario is different, the material presented described the process for resolution of both informal and formal patient safety matters, as well as many strategies to de-escalate conflict with a patient. The College apologizes for the event running longer than the allotted time, preventing an opportunity to answer several questions. As a result, the College has collated the questions that were not addressed live during the event, and are providing answers to them below.

### Questions and Answers

#### **Question #1: Can clients access the MB Hydro plan if they do not have a Hydro account?**

The Deductible Installment Payment Program for Pharmacare is an option for eligible Manitobans to pay their annual Pharmacare deductible in monthly instalments, giving the option to those with high monthly drug costs compared to their monthly income a way to pay their Pharmacare deductible in interest-free monthly instalments as part of their monthly Manitoba Hydro energy bill.

According to the program information, a current Manitoba Hydro customer or Manitoba resident who does not receive a monthly Manitoba Hydro energy bill, can have an account set up to issue monthly billings for the monthly instalments of their Pharmacare annual deductible. Please refer to the [Deductible Installment Pharmacare Payment Program](#) for further information.

**Question #2: Registrants are not permitted to contact the patient after the requesting pharmacy asks for the Transfer. And in Manitoba the College of Pharmacists permits ANYONE to own a pharmacy, as opposed to other provinces that have requirements for a registered Pharmacist to own a majority (ie at least 51%) of the Pharmacy business. So would this mean, that these Non-pharmacist owners we have in Manitoba are permitted to contact patients after a Transfer request is initiated from another pharmacy?**

*College of Pharmacists of Manitoba Mission:*

*To protect the health and well-being of the public by ensuring and promoting safe, patient-centred, and progressive pharmacy practice in collaboration with other health-care providers.*

Member of the National Association of Pharmacy Regulatory Authorities



Pharmacy owners are accountable to the legislation, standards, and code of ethics, as are pharmacists and must comply with all aspects of the conduct of their pharmacy business in accordance with *The Pharmaceutical Act (The Act)* and accompanying Pharmaceutical Regulation (Regulation). This accountability and compliance is required regardless of whether or not the owner is also a licensed pharmacist. A non-pharmacist owner is still obligated to adhere to all legislated requirements, standards, and Practice Directions pertaining to prescription transfers. Therefore, an owner is not permitted to contact an individual/patient upon notice of the prescription transfer request, in the same manner as a registrant. Additionally, anyone not engaged in a regulated therapeutic relationship (such as a non-pharmacist owner) is not a trustee of personal health information and must not have access to this information, which is protected under *The Personal Health Information Act (PHIA)*. This includes the inability for a non-pharmacist owner to access the patient's file and contact information. As previously mentioned, even if an owner is not a licensed pharmacist, they are still obligated to comply with all aspects of the applicable pharmacy legislation, including PHIA.

**Question #3: Is there any chance in the future that the college plays an intermediary role among pharmacies regarding Rxs transfers?**

The College's role is not that of an intermediary between business entities. The Practice Direction [Transfer of Patient Care](#) along with the [Prescription Copies: Pharmacist Obligations & Considerations](#), and the [Code of Ethics](#) which are all available on the College's Resource Library, provide the guiding principles of conduct surrounding prescription transfers, by which all registrants must abide by. The role of the College is to protect the public, by ensuring pharmacists provide safe pharmacy care to all Manitoba patients. The College manages this by holding all pharmacists accountable to their professional obligations as set out in these documents, as well as all the applicable pharmacy legislation, standards, practice directions, and guidelines.

**Question #4: What type of decisions can end in the result of the complaint being listed publicly on the pharmacists profile?**

Firstly, it should be noted that the making of a complaint is not an anonymous process. The registrant has a right to know the nature of the allegations being made against them, and by whom; anonymous complaints are not acted upon and not acceptable in accordance with *The Act*. However, the proceedings and processes of the complaint resolution itself are not public either. There would be no information on a registrant's public profile indicating there is an active complaint against them, an investigation, or any details about the nature of the open complaint matter. The complaints resolution process is confidential. Outcomes of the complaint resolution process are confidential, with the exception of a censure. Section 36(2) of *The Act* permits the Complaints Committee to publish the fact that an investigated person has been censured, and the publication may include the investigated person's name and a description of the circumstances that led to the censure. This may be listed on a pharmacist's public profile. In the event that the Complaints Committee was considering such action, the investigated person would be informed accordingly in the interest of fairness and transparency.

Of important note, all Disciplinary Decisions are made public and published and listed on the pharmacist's profile, in accordance with section 58 of *The Act*, and sections 23(1) and 132 of the Regulation



**Question #5: How to proceed when substitute decision maker/POA involved but patient requested transfer?**

When a patient of sound body and mind requests a prescription transfer, the registrant must oblige. The College Code of Ethics promotes patient autonomy, or patient choice. There however may be times where the situation is complicated by the involvement of a substitute decision maker or a family member with Power of Attorney (POA). Given the complexity and diversity of these situations, it is unlikely a single approach will work for all situations. When receiving a transfer request from another pharmacy which involves a patient with a POA, the registrant should ensure that the new pharmacy is made aware that the patient is subject to a POA agreement as a means to support continuity of care.

**Question #6: If a pharmacy or a pharmacist got a censure for some reason, and the reason of the censure has been treated and resolved, may the college remove the censure?**

A censure is a formal written cautionary statement issued to a registrant in reference to practice, that may place patient safety at risk. The censure is intended as an educational opportunity and indicates specific practices or areas of concern that has potential for risk to patient safety and needs immediate review and correction to prevent similar outcomes in the future. Therefore, a censure is issued with the expectation of informing and changing a registrant's practice in a constructive manner, and thereby mitigating the risk of similar events. A censure is not a finding of professional misconduct and remains permanently on the file of the pharmacist, and sometimes the record of the pharmacy as well, as permanent documentation of the complaint outcome for consideration should another similar concern or complaint matter be submitted in the future.

**Question #7: I found the example on transfers interesting, can you provide any other common examples of complaints or are pharmacists generally doing a good job with patient matters. What about other allied health professionals?**

Although prescription transfers represent a large (~18%) number of informal concerns brought the College's attention, there are several other common areas of complaints. Some of these include medication dispensing errors, PHIA breaches, miscommunication or incomplete communication, and mismanagement of conflict.

Perhaps the biggest common thread with most complaints is the issue of appropriate and thorough communication; or lack thereof between the registrant and the complainant. Many complaint matters the Complaints Committee have addressed have resulted from the registrant not communicating issues in an upfront, thorough, respectful, and transparent matter to the other party. Examples include not informing patients of brand changes, dose/direction changes, price changes, and drug recalls to name a few. In many of these instances, it was noted by the complainant that they would never have felt compelled to lodge a complaint should they have been respectfully communicated with upfront.

Other allied health professionals are outside the jurisdiction of this College and Committee and therefore the College cannot comment on that aspect.



**Question #8: Does a “contract” between a pharmacy and facility like a home care facility prevent other pharmacies from requesting transferring prescriptions even when a patient is requesting such transfer?**

Contracts between pharmacies and home care facilities are typically centered around the provision of pharmacy services to the personal care home facility with the remuneration for these services rendered by the facility, not the patient. Although a patient may exercise their autonomy at any time and elect to receive pharmacy services from any pharmacy of their choosing at any time, residents of a personal care home may encounter a number of variables and hinderances to this based on pre-arranged agreements for pharmacy services and the provision of supervised continuity of care within the personal care home. These factors must be considered when faced with a prescription file transfer request for a resident of a personal care home facility.

**Question #9: Is a pharmacist involved in the complaint resolution process able to contact the College for an update on the progression of the complaint - eg, what stage it is at?**

As discussed during the presentation, the College strives to conduct the complaints resolution process in an open and transparent manner for the complainant and registrant. There is formal correspondence sent out to both parties at each step of the way to inform them of the next phase of the process. However, should a complainant or registrant have a question about where or what phase of the resolution process their complaint matter lies, the College would provide a brief synopsis. There are certain matters that may only be discussed in a ‘high level’ manner, for example, if the process was at the investigative phase and information was still being gathered, no specific details about an ongoing investigation would be shared.

**Question #10: Was the patient’s parent counseled about the antibiotic prescription when it was first dispensed..... in scenario 1. Clearly not, as the concern about the medication would have addressed before leaving the pharmacy. Does this come into the deliberation of the committee?**

In this scenario, there was no evidence that the patient’s parent was counselled. The Committee does consider the contributing factors to a complaint matter. It is often these areas where further education and/or recommendations from the Committee would best support practice or process changes, to reduce the likelihood that a similar situation would arise in the future.

**Question #11: Regarding the scenario with the 15 month old child, is the complaint lodged against the dispensing pharmacist alone, or would it also involve complaints against the two other staff who talked to the mother on the phone and incorrectly assured her the prescription was dispensed correctly?**

Throughout the consideration of the investigation report, the Committee determines the roles and accountability in a complaint matter. In this scenario, the dispensing pharmacist, who was also the pharmacy manager, was the registrant who received the censure. It is important to note that censures against multiple pharmacists may be considered and issued in the resolution of a single complaint depending on the involvement and accountability of the pharmacy staff.



Be reminded that support staff, such as pharmacy technicians and pharmacy assistants are supervised by a licensed pharmacist, and fall under the accountability/responsibility of the pharmacist supervising them.

**Question #12: Which pharmacist was censured? The one who filled it or the one who checked it, or both?**

See question #11

**Question #13: In investigation #1, did both pharmacists involved get censured or just the one who checked and handed out the prescription?**

Please see the answer to question #11.

**Question #14: In case scenario #1, which pharmacist was censured? The one who made the original error and did not document counselling, the one on duty when the mom called to confirm the Rx, or the manager for not having a P&P manual? Or all of them?**

Please see the answer to question #11.

**Question #15: Would the College consider implementing a ratio of pharmacists to prescription number. Usually the situations that leads to dispensing errors is a result of busy work places and fewer staff.**

A pharmacist to staff ratio can be highly variable and dependent on a variety of different factors, and as such, there is no manner for placing a specific ratio to be applicable in all pharmacy settings. Ultimately, it is the role of the pharmacy manager and pharmacy owner to determine such an appropriate pharmacist to staff ratio for that particular pharmacy, that ensures and maintains safe and effective practice. In accordance with Section 56(1) of the Regulation, Standard of Practice #14 Pharmacist to staff ratio:

*A member and an owner must ensure that a pharmacy is operated with a ratio of members to pharmacy technicians, interns, students and other staff or workers that ensure safe and effective pharmacy practice.*

As such, during the complaint resolution process pertaining to an error, if inadequate staffing was identified as a contributing factor, it will be brought forward and must be addressed by the pharmacy manager to ensure patient safety.

**Question #16: What is the imperative to the Complaint Committee to refer the pharmacist to discipline without interviewing the pharmacist?**

As outlined in the Lessons from Complaints 2020 PD program, every complaint is resolved by the same process. When a formal complaint is received by the College, the pharmacist is given notice of the complaint and the opportunity to formally respond to the Committee in writing. The pharmacist may bring forth any information that may shed light on or refute the matter at that point and may also provide any additional supporting documentation. Additionally, if an investigation is ordered, the



pharmacist is notified, and involved throughout the investigation process and invited to provide any further additional information to the investigator to be shared with the Committee, for consideration prior to the Committee rendering their final decision. The Committee is not required to meet with a registrant in advance of referring a matter to the Discipline Committee for their consideration.

Matters that are referred to discipline are typically serious, and egregious in nature and may represent serious professional misconduct or conduct unbecoming of a professional.

**Question #17: When we call the doctor for the clarification of early fill, and the prescriber mentions few reasons which you find not of true nature, what should we do then?**

Often situations such as this arise from miscommunication between the prescriber and pharmacist. Should the pharmacist's professional judgment not align with the prescriber's rationale or judgment to release an early fill, the pharmacist should concisely convey their concern to ensure the prescriber is accurately informed on all relevant information. The pharmacist should document all relevant aspects of the conversation and may still use professional judgement in deciding to fill the prescription.

Pharmacists have the professional right to refuse filling a prescription when a serious risk for patient safety has been identified. In accordance with section 83 of the Regulation, pharmacists are required to review each prescription and the patient's record and take appropriate action with respect to ensuring patient safety. This may include the refusal to fill a prescription. In these unusual circumstances the pharmacist should follow procedures as outlined in section 2.3 of the Practice Direction 'M3P Information Entered into DPIN' regardless of whether the drug is a narcotic (M3P drug) or not. Both the patient and prescriber should be notified of the decision with a clear explanation of the rationale, the refusal to fill must be documented in DPIN, and all information leading to that decision is to be documented on the prescription hard copy as well. Further to this, as in accordance with section 79(2) of the Regulation, all documentation of refusal to fill prescriptions must be retained for 5 years.

Lastly, if any pharmacist feels uncomfortable with dispensing a medication that they believe may have the potential to cause patient harm, they should not feel obligated to do so, but must refer the patient appropriately according to the [Referring a Patient Practice Direction](#).

**Question #18: Is it acceptable practice for an assistant to ask the patient if there are any questions and document no questions? If questions, inform Pharmacist?**

In a community practice setting, although it is often common place to have a pharmacy assistant at the cash register to free up the pharmacist for other duties, it is still a requirement that each patient is provided sufficient information or counselling on each prescription by the pharmacist, whether it be a new medication or refill. The pharmacy assistant may ask the patient if there are any questions for the pharmacist however, this does not satisfy the obligation for a pharmacist to provide counselling on every prescription. It is the responsibility of both the pharmacy manager, and the licensed pharmacist on duty, to ensure that patient counselling is offered to every patient, regardless of whether the prescription is new or a repeat. The pharmacy manager must have appropriate policies and procedures in place to support staff and ensure patients are receiving the information necessary for the patient to make informed decisions about their health.



**Question #19: If a medication is sent to a clinic for administration, is counselling the patient required? The practice direction indicates dialogue with the patient may not be required.**

In accordance with Section 56(1) Standards of Practice #1, each time a drug is dispensed pursuant to a prescription, a pharmacist must provide the patient with sufficient information (patient counselling) to enable the patient to safely and effectively manage his or her drug therapy. This includes new prescriptions and refills, and must occur whether the medication is picked up by the patient in-person, picked up by an agent of the patient, or delivered (directly to patient, or to a clinic for administration).

Section 2.2 of the [Practice Direction Patient Counseling](#) provides further standards as to when counselling dialogue is required.

- 2.2.1 states that counseling is required ‘when a Schedule I drug is dispensed to a patient or their agent.’
- 2.6 states ‘when a patient has requested delivery of their medication, the licenced pharmacist, academic registrant or intern must make all reasonable attempts to contact the patient directly.’
- 2.6.2 of the [Practice Direction Drug Distribution and Storage](#) echoes this standard by stating, ‘For all deliveries of prescription drugs, the pharmacist must ensure that the standards of practice for patient counselling are met.’

It is the expectation that patient counselling is offered when dispensing any medication; new or refill.

Despite the direction provided in Section 2.10 of the [Practice Direction Patient Counseling](#), it is still the responsibility and obligation of the dispensing pharmacist to communicate and confirm with the regulated health professional administering or supervising the administering of the drug, what, if any, appropriate drug information is relayed to the patient, and what further information may be required. Once this communication and confirmation has occurred, the pharmacist must document this in a readily retrievable manner.

**Question #20: No one plans to make an error and does the committee acknowledge the impact on the professional committing the error and recommend counseling or additional supports needed to help restore confidence (which is a component of competence)?**

Understandably, many registrants are deeply regretful and saddened upon making an error. The Complaints Committee is sensitive to the collateral effects of a medication error, but also remain mindful of the College’s mandate to protect the public. The Committee will consider the nature of the error, any/all contributing factors, the level of practice exhibited by the pharmacist who made the error, and the level of accountability and self-reflection by the pharmacist in relation to the error. Therefore, for instance, during a censure consideration meeting, the Complaints Committee discusses with the registrant what went wrong, the impact on patient safety, and what the Committee would like to see from the registrant for improvement. Often the Complaints Committee will provide guidance for educational purposes and offer words of encouragement. The Committee will seek to ensure that the registrant is progressing through the healing that a pharmacist may need to manage because of a medication error. The Committee may discuss support or counselling with a registrant where appropriate or necessary.



**Question #21: What about refusal to fill or urging the patient to return to their usual pharmacy to avoid double pharmacy?**

There are many considerations to take into account when a pharmacist refuses to fill a prescription. These considerations may be situationally dependent and will vary. Careful questioning to gain a clear understanding of the circumstances surrounding the filling of the prescription is key. There may be legitimate rationale provided by either the prescriber, patient or both that would give clarity and support in appropriate decision making. Although patient autonomy for choice of pharmacy to fill prescriptions is important, polypharmacy should be discouraged; especially for narcotic, controlled or targeted substances. Depending on the situation it may be appropriate to fill the prescription after communication with the patient's usual pharmacy. In other instances, directing the patient to their usual pharmacy may be suitable. Further to this, in the interest of patient safety, there may also be circumstances for the pharmacist to discuss with the patient's primary prescriber the possibility of limiting the patient to a single prescriber and/or pharmacy. In each and every circumstance, the pharmacist must exercise professional judgement, after collecting and considering all of the relevant information. Communication is a key element to gaining the full understanding of the situation before making your judgment. This includes communication with the patient, the prescriber, and the patient's usual pharmacy when necessary.

Please see comments after question #17 for additional discussion about refusing to fill.