

16 November 2020

Dr. Nancy Whitmore  
Registrar  
College of Physicians and Surgeons of Ontario

By E-mail only: [thirdpartyexpert@cpsy.on.ca](mailto:thirdpartyexpert@cpsy.on.ca)

**Re: Open Consultations Response**  
**Draft Policy: *Third Party Medical Reports* and**  
**Current Policy: *Telemedicine***

Dear Dr. Whitmore:

I write to respond to these open consultations. I would like to add additional comments to those I provided in my earlier web response.

By way of introduction, I am a duly qualified physician and a Fellow of the Royal College of Physicians and Surgeons of Canada with Specialist Certification in Psychiatry. I also hold a Certification in Medical-Legal Expertise. I have particular interests in occupational, organizational and medico-legal psychiatry and frequently provide independent evaluations in those realms. I have been accepted as a court-qualified expert in psychiatry in both civil and criminal matters. Details of my qualifications and experience are outlined in my attached curriculum vitae and biography.

My first concern on 3<sup>rd</sup> party examinations/reports relates to issues of professionalism, scope of expertise and associated practices. In contrast to what seem like suggestions that in my view would arbitrarily limit the scope, detail and/or relevance of physician input and opinion to matters specifically mentioned in the referral and instructions provided by lawyers, (as appears to be suggested on page 5, #s 2-3, in the February 6, 2020 Ontario Trial Lawyers Association (OTLA) submission, I believe physicians will remain most able to continue providing the best highest quality services to assist the court by appropriately exercising their professional judgement and experience in all of whatever circumstances they find relevant to matters at hand or in dispute from the standpoint of their specialty. I believe current College policy and guidance allows them to do so, while all other parties maintain their ability to address any matter they may be concerned about to the court and/or to CPSO. Strictly with a view to physician vulnerability if they might somehow inadvertently ask about, learn of or report on matters without specifically being asked to do so, and to doctors potentially shying away from involvement in this type of work out of concerns such as these, I believe maintenance of the current College policy [absence of

specific guidance on these issues] continues to be in the best interests of the public and physicians too.

Next, the College's Physician Participation in Third Party Processes beginning at line 31, and, more specifically, at 39-43, where they state: "... **must**... *have the requisite scope of practice and area of expertise and have actively practiced within that scope and area of expertise within the past two years [my emphasis]*", as foot-noted at #9 as well, is of some concern worth considering.

First, given Maintenance of Certification requirements/practices it is most reasonable in my view to expect physicians to remain knowledgeable in their areas of practice and/or expertise, and to be realistically/responsibly able to determine those in which provision of their opinion continues to be professional. Conversely, '**must**' expectations seem arbitrary, even more so in the context of life-long learning. One might also readily identify circumstances in which a lack of current [within 2 years] utilization of a modality would not be out of date. As an example in my own area of expertise, basic theories/practices related to stress and pain management relaxation therapies have changed very little for many decades. In contrast to situations that require knowledge of best practices on recently-developed medications, providing opinion on modalities such as progressive muscular relaxation, relaxation in imagination and the like would not require such recent exposure, and additional or new knowledge of them might well be gleaned in MOC activities, as above. With these thoughts in mind I kindly request the College considering omission of the noted section, or modifying it to an 'advisory' level.

The Telemedicine Policy and accompanying Advice are both very helpful to physicians. They have been invaluable to most doctors I've spoken with and me in establishing and making the transition into virtual practice where I exclusively treat patients now. They are also very helpful in my 3<sup>rd</sup> party practice where I have provided services at the requests of plaintiff and defence council alike. However, their focus under General Expectations, item 2, is on contemplation of "patient care" circumstances. It would be very helpful for CPSO to offer either broader advice, or to set out guidance specifically related to 3<sup>rd</sup> party issues if they feel any are particularly relevant to services in a virtual environment.

I hope this input is useful to your deliberations on these open consultations.