

Backroom Deals vs. Public Shaming: Transparency and Physician Error

May 1, 2015 – As if we didn't already have enough on our plates, the Toronto Star now wants us to add, Serve as judge and jury when doctors mess up to our list of things to do. In a recent [editorial](#), the Star suggested that “backroom deals between errant doctors and Ontario’s medical watchdog” (a.k.a. the College of Physicians and Surgeons of Ontario), are depriving patients of “potentially useful” information and keeping the public in the dark about the mistakes made by physicians. Their solution is to publish “the trail of errors a doctor leaves behind”, something they call “transparency” but in actual fact is nothing more than grist for the rumour mill and fodder for sensational reporting.

Contrary to the insinuation that the College of Physicians and Surgeons of Ontario is out to protect doctors and keep the public in the dark, they are, in actual fact, out to protect the interests of the public first and foremost. To accomplish this, the college adheres to strict procedures when it comes to addressing and dealing with complaints.

The process begins by conducting a thorough investigation. Other doctors, anesthetists, nurses, patients and anyone else who can possibly contribute to the process is interviewed. No stone is left unturned.

When an investigation reveals that a doctor has breached standards of practice or conduct, the college retains an independent and unbiased expert to create a report for the Inquiries, Complaints and Reports Committee (ICRC). The ICRC’s job is to review all the documents and evidence before them, including the independent expert’s report, and make a disposition of the complaint. The disposition can take one of three forms:



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1. Dismiss the complaint because it has no merit. In other words, there were no grounds for the complaint in the first place.
2. Disposition that they think is appropriate under the circumstances. For example, the ICRC could require the doctor to take a record keeping course if his or her records aren't being kept in a reasonable and responsible manner.
3. Refer the matter to the discipline committee. The ICRC cannot convict a physician of professional misconduct at this juncture because he or she still needs to be given the opportunity to defend him- or herself. However, the referral will be permanently placed on the doctors' public record until a full prosecution is concluded.

Regardless of which of the above dispositions the ICRC makes, the committee sends a detailed report to the complainant outlining all that has been done, the reasons they came to their decision and the next steps for the doctor involved. If the matter is referred to the disciplinary committee and formal charges are laid, a process akin to a trial takes place. This "trial" is open to the public and the media. In other words, despite what some might think, the process is transparent.

In cases where the complaint is dismissed or the ICRC prescribes a particular course of action but declines to forward the matter to the disciplinary committee, both the physician and the complainant have 30 days to appeal the decision to the Health Professionals Appeal and Review Board (HPARB). In that case, everything in the file including phone messages, emails, and every possible document is forwarded by the college to HPARB. HPARB in turn forwards everything to both the doctor and the complainant. Once again, the process is open and transparent.

As for the "backroom deals" or undertakings that the Star seems so concerned about, these are simply documents that lay out what the ICRC requires a physician to do in order to move forward. It is, in essence, a contract that the physician must

adhere to. He signs the undertaking and in so doing, agrees to complete carry out these obligations. Failure to do so can result in prosecution. Far from a shady deal, an undertaking is actually a highly effective tool designed to ensure a situation is remedied, or else.

The Star concludes their editorial by opining that “Only when armed with that knowledge can people make truly informed choices about their care.” But is that really so? Is the general public, with their lack of medical training and limited knowledge of how the health profession works, really in a position to sift through and understand this information better than the trained doctors and highly-skilled and -trained health professionals who have been appointed to investigate these matters? Given that a little knowledge is a dangerous thing, it’s not too hard to imagine the Star’s demand resulting in confusion, misunderstanding and mistrust, and a misguided lack of confidence in doctors, something that could easily undermine our health care system.

Ontario has a well-thought out and rigorous system in place to keep patients safe and hold doctors accountable when they make mistakes. Making the trail of errors a doctor leaves behind visible to all under every circumstance serves no one but gossips, the curious, and media outlets and tabloids who wouldn’t hesitate to turn a molehill into mountain in order to sell papers.