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## Pediatrician fights CPSO over uninsured services

Written by Mark Cardwell on October 4, 2011 for [The Medical Post](#)

Oshawa doctor facing hearing over 'membership fee' maintains she did nothing wrong

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The CPSO launched an investigation into Dr. Karen Dockrill, above, when a woman complained that, to get an appointment, she had to pay a \$1,000 annual "membership fee" to join Dr. Dockrill's clinic.

WHITBY, Ont. | Dr. Karen Dockrill isn't worried about the outcome of her coming appearance before the disciplinary committee of the Ontario College of Physicians and Surgeons (CPSO) on rarely invoked charges related to her alleged refusal to see a patient who wouldn't pay block fees.

What really bothers the pediatrician in this town 40 minutes east of Toronto is the high-handed manner in which she says she has been treated by the province's medical regulator.

"I don't believe I will be found guilty of anything, because I did nothing wrong," Dr. Dockrill told the Medical Post. "But this has been a very unpleasant learning experience for me about the sweeping powers the college has (and) how they use them.

"It has made me realize as a physician how few rights we have."

### Four-year investigation

Scheduled to begin Oct. 17 at the college's headquarters in Toronto, the four-day hearing will feature evidence collected during a four-year investigation.

The case began when a new mother who had been referred to Dr. Dockrill complained that in order to get an appointment she had to pay a \$1,000 annual "membership fee" to join the pediatrician's multiservice clinic, the Mom and Baby Depot.

The complaint led to four charges against Dr. Dockrill in 2009: two for professional misconduct, one for contravening the college's advertising regulations and another for charging illegal block fees.

If found guilty on any or all charges, Dr. Dockrill faces penalties ranging from restrictions on or suspension of her medical licence to a reprimand and/or fines.

The case has generated widespread media coverage in Ontario and fuelled debate over both the limits and future of universal health care in Canada.

In response to questions about the charges against Dr. Dockrill, college media manager Kathryn Clarke said: "Physicians are entitled to charge for uninsured services that take up their time and resources, (but) they must not require patients to pay a block fee before accessing an insured service."

She continued, "The bottom line is that patient choice is paramount. Patients must be offered a choice of paying (and) fees charged must be clear and reasonable according to Ontario Medical Association guidelines."

### **Four MDs charged**

According to Clarke, Dr. Dockrill is only the fourth physician in Ontario to be charged with improperly applying block fees.

All three physicians in the previous cases—Drs. Duaine Clements (2003), Daniel Pollock (2003) and Thomas Barnard (2006)—were found guilty of professional misconduct.

Their punishments ranged from an agreement to retire for Dr. Clements, a general practitioner who was in his 70s, to two-month suspensions and \$2,500 fines for the others.

Dr. Dockrill's case has galvanized at least one sector of the physician community.

"I'm heartened that the college is moving to enforce the rules," said Dr. Danielle Martin, co-founder and spokeswoman for Canadian Doctors for Medicare, a lobby group.

Though unaware of the specific details in Dr. Dockrill's situation, she said it was "illegal and unethical" to charge taxpayers fees for services they have already paid for and for access to which they have a legal right.

"The whole purpose of public health care is to provide access on need, not the ability to pay," Dr. Martin said in a telephone interview from Toronto, where she works as a family physician and a lecturer in the department of family and community medicine at the University of Toronto. "I have no problem with (patients) who want to get all the bells and whistles paying more for that. But those who can't afford it shouldn't be pushed aside."

She added that many physicians "are always trying to push the envelope to maximize their income with added services they can offer their patients. But the rules are clear that those services can't affect patient access."

An official with the Ontario Medical Association said the association also supports the college's efforts to ensure that block fees are charged only for uninsured services, not as a mandatory fee that limits access to physicians.

However, the new president of the Canadian Medical Association, Dr. John Haggie, said in his inaugural address to the group's general council in August that the CMA will continue to push the federal government to "press forward" with the 10 recommendations the CMA has made regarding health-care transformation.

The first recommendation is to discuss “a range of ways of funding services along the entire continuum of care with the goal of improving access.”

Those suggested mechanisms include user fees “that provide a portion of funding (and) may help create the right incentives for a broader, more appropriate and more efficient system of supports.”

For her part, Dr. Dockrill rejected the patient’s complaints that led to the charges against her.

“I never refused to see (the woman),” she said. “I offered her a consultation appointment and she refused.”

### **Concierge fee**

She added that the woman insisted instead on becoming a patient. However, she balked at paying the annual \$1,000 concierge fee that the estimated 300 members of Mom and Baby Depot pay to access a wide range of ancillary services.

Dr. Dockrill said the service enjoys a patient renewal rate of 98%.

She also said she has co-operated fully with college investigators. For example, she said, she made all the changes they suggested regarding everything from the way her clinic charges fees to the content and wording of its website.

Despite those changes and apparent overtures for a settlement made to her lawyer by the college in March, Dr. Dockrill said she believes the college apparently decided to make an example of her.

“They made it clear they wanted to punish me as an example to others,” said Dr. Dockrill.

She added college investigators were relentless in their efforts to find fault. According to Dr. Dockrill, they pored over her charts, e-mails and phone records and questioned employees—even a yoga teacher who worked at Mom and Baby Depot—about health-care professionals and services at the clinic.

Notably, she said, investigators tried in vain to prove that she was using an ultrasound service offered in another clinic in the same building for diagnostic purposes.

“They went absolutely over the top,” said Dr. Dockrill. “They made very inappropriate assumptions about me and the services I’ve had (and) they intimidated staff.”

She added the heavy-handedness of the CPSO’s investigation led to the departure of several of the clinic’s health team members and made it difficult to recruit.

Dr. Dockrill explained she is also getting calls from many physicians who she says are charging similar concierge fees.

“They’re afraid,” she said. “Who wants these kinds of problems?”

When asked to comment about Dr. Dockrill’s assertions that the investigators went too far and that the college is trying to make an example of her, Clark said she couldn’t discuss the particulars of the case.

“I can say that in general, college investigators are impartial, professional, experienced fact gatherers,” she said in an e-mail, adding: “Investigations are completed as quickly as possible without compromising the adequacy of the investigation.”

Regardless of the outcome of her hearing, Dr. Dockrill said, she is considering making a constitutional challenge on the issue of block fees.

“It’s a very costly process, but I’m thinking seriously about it,” she said. “It’s about the right of patients to choose and our right as physicians to set up the services they want and need.”

