

Medicolegal File

Philip G. Winkelaar, CD, MD, CCFP

Reporting intoxicated drivers

QUESTION

A patient recently attended my office in an obviously intoxicated state. Because of the unusual behaviour, I asked about alcohol and drug use and was told that the patient had been drinking alcohol. I was convinced that the patient was "drunk," and was then alarmed to find that he intended to drive himself home after leaving my office. I was in no doubt that the patient was in no condition to be driving a car. It was only after I threatened to call the police that the patient agreed to have a friend do the driving. Was this an appropriate way to handle the situation?

ANSWER

This scenario occurs all too often, whether the intoxication is caused by alcohol, prescription drugs, or street drugs. You seem to have had a satisfactory result in this instance, but the course of action you threatened to take (to call the police) could have landed you in difficulty. The dilemma that physicians face in this situation is how to balance the physician role with the citizen role—on the one hand, maintaining patient confidentiality, and on the other, safeguarding society. Recent articles,^{1,2} although instructive, do not specifically address the acute situation you faced. The Canadian Medical Association's (CMA) *Code of Ethics*³ might be at least as helpful.

Certainly you were right to warn the patient that he was not in fit condition to drive his car and to urge alternative arrangements. If you had done nothing and the patient while driving home had seriously injured himself or others, you would no doubt have regretted it. While patient confidentiality is a cornerstone of medical practice and must be carefully safeguarded, all citizens, including physicians, have a duty not to ignore public safety.

There is no statutory obligation that requires you to call the police in the situation in which you found yourself. In most jurisdictions, physicians are required to report to a motor vehicle licensing authority, not to the police,

patients who have conditions that could make it dangerous for them to drive. The CMA's *Physicians' guide to driver examination*⁴ recommends in sections 14 and 15 that frequent or chronic abuse of or addiction to drugs or alcohol be considered reportable conditions. It is arguable whether an acute state of intoxication is to be understood as a "condition" requiring a report.

As with so many other situations in medicine, physicians must balance competing obligations and act in a prudent and reasonable fashion. If you believe that a patient should not be allowed to drive because he or she is in an acute state of intoxication, and if you cannot convince the patient to find an alternative driver or alternative transportation, you might well have to take other preventive steps. Be sure, however, to document the facts, circumstances, basis of your reasoning, and sequence of steps you took. If you were to call the police and if later a patient were to complain about that action, the notes you made would form the basis of your defence. On the other hand, if you decided to allow a patient to leave your office and an accident occurred subsequently, those notes would be essential for defending yourself against allegations that your decision had been made carelessly. ♦

Acknowledgment

I thank Dr S.B. Lee and Mrs M. Ross for their thoughtful comments on previous drafts of this article.

References

1. Carlisle J. Duty to warn: report from Council. College of Physicians and Surgeons of Ontario. *Members dialogue* 1996;4(4):21-2.
2. Ferris LE, Barkun H, Carlisle J, Hoffman B, Katz C, Silverman M.

Although laws governing medical practitioners are similar across the country, they can vary greatly from one jurisdiction to another. Specific answers to questions cannot be given in a national publication. While the information in this article is true in general, it is intended to bring issues to your attention, not to give specific advice. You should consult a lawyer if you have specific concerns. Members of the Canadian Medical Protective Association can contact the Association at 1-800-267-6522.

Readers may submit questions on medicolegal issues by fax to Dr Philip Winkelaar at (613) 725-1300. They will be considered for future Medicolegal Files.

Defining the physician's duty to warn: consensus statement of Ontario's Medical Expert Panel on Duty to Inform. *Can Med Assoc J* 1998;158(11):1473-9.

3. Canadian Medical Association. *Code of ethics*. Article 22. Ottawa, Ont: Canadian Medical Association; 1996.

4. Canadian Medical Association. *Physicians' guide to driver examination*. 5th ed. Ottawa, Ont: Canadian Medical Association; 1992.

.....
Dr Winkelaar, a Fellow of the College, is on staff at the Canadian Medical Protective Association in Ottawa, Ont.