

# Medicolegal File

Philip G. Winkelaar, CD, MD, CCFP, FCFP

## Anonymous calls

### QUESTION

One of my patients suffered an injury that causes persistent back pain. Because of that, the patient has been off work on long-term disability (LTD) for more than a year. Recently, someone made an anonymous telephone call to my office stating that my patient is working on a regular basis as well as collecting LTD payments. Do I have an obligation to report this person?

### ANSWER

Patient confidentiality is a fundamental principle of medicine. You cannot divulge to anyone information obtained in the course of your practice, except with a patient's consent or when required to do so by law. While several statutes require reporting (eg, unfit drivers, unfit airplane pilots, abused children, and in some provinces health care fraud), there is no requirement to report a person in this kind of situation.

By their very nature, anonymous telephone calls cannot be confirmed. The motivation behind such a telephone call cannot be assessed. The information provided, however, might lead a reasonable practitioner to reevaluate the patient's condition.

Most disability policies require regular reports from a physician. That process provides an obvious opportunity for reassessing your patient's condition, keeping this information in mind. You might ask yourself what the objective findings are, what the subjective

complaints are, and whether these are consistent with each other. You might choose to ask a patient directly about his or her activities. Sometimes it might even be worthwhile to let a patient know the reason for your reevaluation, but you should be careful not to suggest that the patient is defrauding the insurer. Your sole intent should be to discharge your professional duty to properly evaluate a patient's condition. It might also be advisable to obtain a second opinion on the degree of disability.

Reevaluations for LTD are generally done at the request of the insurer, but it is necessary to obtain the patient's consent to the examination and to releasing the information obtained. Your report and its conclusions must be based on the objective information that you, yourself, have been able to obtain. While the anonymous call might have triggered your reevaluation, your report must be based entirely upon your own opinion, which you derive from the history and examination of the patient and any other medical opinions that you have received.

It is important to remember that, while you are expected to be an advocate for, and to act in the best

interests of, your patient, you cannot allow yourself to become party to a disability claim that is not supported by evidence. While you cannot base your management of a patient on an anonymous telephone call, it is perfectly reasonable to consider all collateral sources of information that you might have. ❖

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.

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