interviewer to assist those who might need this service, and have periodic conference calls to update each other on our progress and hash-over additional ideas.

Although the main purpose of this article is to inform the CRA membership about this project, we also wish to extend a warm invitation to anyone who feels that they might like to contribute to compiling the history of Canadian rheumatology. This can be either as a regional history, a vignette or through making available a resource of interest.

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Supreme Court Ruling of 1928 Neglects Important Rheumatic Disease Findings Modern Electronic Record Keeping Could Feel the Effects 80 Years Later

By Steve Edworthy, MD, FRCPC, BSc

This is a story about a missed rheumatic-disease diagnosis, inappropriate breaking of patient confidentiality, and a libel and slander claim that, after several years, led to the first Canadian Supreme Court ruling on patient-physician trust relationships.

Christopher Walter Halls, a married Toronto carpenter, volunteered for the war effort in 1916. He received his military medical exam and was inducted in the army in Niagara Falls, Ontario. Halls was assigned to the King George Overseas Expeditionary Forces, and fought in the trenches of France during WWI. While in service, episodes of urethritis were recorded in his military record as “v.d.g.” This indicated the physicians thought he had a venereal disease (VD gonococcal)—later hotly refuted by Mr. Halls.

Halls received an early discharge when a heart murmur was discovered, not noted on his original induction examination. Upon return to Canada from France, he became a tradesman with the Canadian National Railway. While working, he developed symptoms including red eye and rheumatism. Halls believed that these symptoms were caused by his being struck by an opening door on the job. He sought compensation from the Worker’s Compensation Board (WCB) for his loss of income.

References:
A Toronto specialist, hired by the WCB to review the case, and an Ottawa-based military medical officer, conferred on the case. In their review, one of them conveyed information to Halls’ family that he had developed a VD while overseas. The ensuing marital discord led to the exsoldier filing a libel and slander lawsuit against the two doctors in the Ontario courts.

Through a series of appeals lasting seven years, the Supreme Court of Canada (SCC) finally ruled in 1928 that patients had the right of informed consent regarding the disclosure of information from their chart to a third party (Table 1).

Of note, the legal records fail to show that this individual may indeed have had a seronegative arthritis with associated iritis and valvular heart disease. Mr. Halls was likely telling the truth when he said he had not acquired a VD while overseas (Table 2). The Supreme Court, however, was more interested in the fiduciary responsibility of the physicians than their ability to diagnose and record information accurately. In today’s legal climate, Mr. Halls could possibly have sued for inadequate care during his military service as well, notwithstanding that his original WCB claim would require further review in light of a rheumatology assessment.

This case is one of the prime references for the more current SCC 1992 ruling, McInerney vs. MacDonald, regarding the ownership of medical records. In this case, Mrs. Margaret MacDonald successfully petitioned the Court of Queen’s Bench, the superior trial court of a province, to have all of her medical records released to her. Her family doctor, Dr. Elizabeth McInerney, deemed it unethical to release consultation reports and records written by other doctors, which she considered their property. In a subsequent appeal, the SCC ruled in favor of the patient, stating that Dr. McInerney was required by law to copy the entire chart for the patient, at their request. Ironically, the records had already been copied for the patient by the time the SCC ruling was made.

The implications of these two rulings, on the use, access, and disclosure of electronic medical records (EMR) has not yet been tested. It appears that the legal aspects of electronic record governance and data stewardship are lacking key understandings in Canada. In Mr. Halls’ 1928 case, the rulings related to the patient-physician trust. In the more recent case, the courts were interested in paper charts, photocopying and financial costs. However, the use of electronic systems for access and disclosure of information could affect the legal situation substantially. No doubt a situation will arise that will lead to a new SCC ruling on how information, recorded by physicians in electronic charts, can be used by government, health authorities, and other administrative bodies, as well as by the patient.

Of considerable interest, perhaps new consideration will be given to the argument of J. A. Rice that, since lawyers are not required to divulge their case notes, physicians might not need to divulge their own proprietary notes. Possibly, portions of the electronic chart, such as early diagnostic speculations, will be upheld as the property of the physician. If rheumatologists had been present in 1916, no doubt we would have a very different medico-legal history!

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