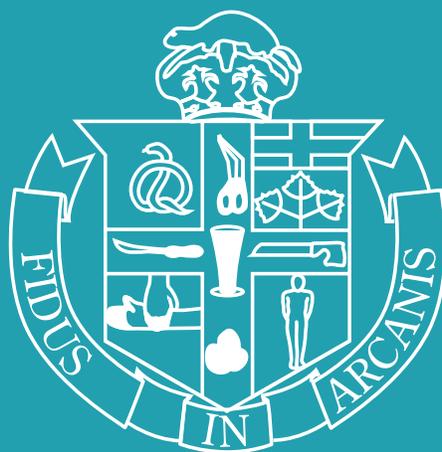


The College of Physicians and Surgeons of Ontario

Meeting of Council



March 1, 2019



THE
COLLEGE
OF
PHYSICIANS
AND
SURGEONS
OF
ONTARIO

**NOTICE
OF
MEETING OF COUNCIL**

A meeting of The College of Physicians and Surgeons of Ontario will take place on Friday, March 1, 2019 in the Council Chamber of the College, at 80 College Street, Toronto, Ontario.

The meeting will convene at 9:00 a.m.

Nancy Whitmore, MD, FRCSC, MBA
Registrar and Chief Executive Officer

February 5, 2019



MEETING OF COUNCIL

March 1, 2019

Council Chamber, 3rd Floor, 80 College Street, Toronto

CALL TO ORDER

9:00 President's Announcements

9:10 Council Meeting Minutes of December 6 &7, 2018 1

Executive Committee's Report to Council, December – February 2019 21

REGISTRAR/CEO REPORT

9:15 Registrar/CEO Report

BREAK

GUEST SPEAKER

10:15 GOVERNANCE EDUCATION

Guest Speaker: *Linda Rothstein, Partner, Paliare Roland Rosenberg Rothstein LLP*

COUNCIL AWARD PRESENTATION

11:45 Council Award Winner: Dr. Rayfel Schneider of Toronto, Ontario 22

LUNCH BREAK

1:00 Physician Council Member Prep Time 23
 • *For Discussion*

Committee Chairs have been asked to consider committee efficiencies, by the Finance Committee. As part of this, a summary of prep time claims submitted by physician Council members in 2018 has been prepared, which shows some variation. Council is asked what should be done to standardize the approach to prep time for Council.

1:15 MEMBER TOPICS

1:30 Logo Update Proposal..... 28
 • *For Decision*

The CPSO is launching a new modern user-friendly website in April 2019. The current logo does not meet Accessibility for Ontarians with Disabilities Act (AODA) standards and is not suitable for mobile-friendly website usage. Three options to replace the current logo (for website use only) will be presented for Council’s final decision and approval.

1:50 Specific Direction to the Registrar Regarding Registration Requirements – Policies Requiring Revision 32
 • *For Decision*

The Registration Committee is requesting: 1) an amendment to the current policy “Postgraduate Term for Clinical Fellows”, to permit issuance of a certificate of registration to an IMG clinical fellow for a period of up to 5 years, without requiring referral to the Registration Committee, and 2) In accordance with a series of specific directives the Registration Committee has issued to the Registrar which enables staff to register applicants who satisfy the directives without referral to the Registration Committee, the Committee is requesting amendments to applicable Registration Policies to provide clarity.

2:00 Governance Committee Report..... 55
 • *For Information*

1. Governance Review/Modernization
2. New Public Members of Council
3. Committee Appointments

- **For Decision**

4. Election for Public Member to fill vacancy on 2019 Executive Committee

BREAK at 2:30

2:45 Finance and Audit Committee Recommendations 68

- **For Decision**

The Finance and Audit Committee met on January 24th and two items were discussed/reviewed that are being recommended to Council:

1. Removing Criminal Record Check and Fairness Commissioner Fees from the Fees By-Law
2. Tariff Rate Increase for Discipline Hearings

3:00 INFORMATION ITEMS

1. **Policy Report 77**
2. **Government Relations Report 89**
3. **Discipline Committee - Report of Completed Cases, March 2019 95**

IN CAMERA SESSION

ADJOURNMENT

Council Motion

Motion Title: Council Meeting Minutes of December 6 and 7, 2018

Date of Meeting: March 1, 2019

It is moved by _____,

and seconded by _____, that:

The Council accepts the minutes of the meeting of the Council held on December 6 and 7, 2018

or

The Council accepts the minutes of the meeting of the Council held on December 6 and 7, 2018 with the following corrections:

**DRAFT PROCEEDINGS OF THE
MEETING OF COUNCIL
OF
THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO
December 6, 2018**

Attendees:

Dr. Steven Bodley (President)
Dr. Philip Berger
Dr. Brenda Copps
Ms. Lynne Cram
Mr. Harry Erlichman
Ms. Joan Fisk
Mr. Pierre Giroux
Dr. Rob Gratton
Dr. Deborah Hellyer
Dr. Paul Hendry
Mr. Mehdi Kanji
Ms. Catherine Kerr
Major Abdul Khalifa
Mr. John Langs
Dr. Barbara Lent
Dr. Haidar Mahmoud

Mr. Paul Malette
Ms. Ellen Mary Mills
Ms. Judy Mintz
Dr. Akbar Panju
Mr. Peter Pielsticker
Dr. Dennis Pitt
Dr. Judith Plante
Dr. Peeter Poldre
Dr. John Rapin
Dr. Jerry Rosenblum
Dr. David Rouselle
Dr. Patrick Safieh
Dr. Elizabeth Samson
Ms. Gerry Sparrow
Dr. Andrew Turner
Dr. Scott Wooder

Non-voting Academic Representatives on Council: Dr. Mary Bell and Dr. Robert (Bob) Smith

Regrets: Ms. Joan Powell, Dr. Janet van Vlymen

CALL TO ORDER

President's Announcements

Dr. Steve Bodley opened the meeting with a traditional land acknowledgement statement as a demonstration of recognition and respect for indigenous peoples:

We acknowledge the land we are meeting on is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples and is now home to many diverse First Nations, Inuit and Métis peoples.

Council Meeting Minutes of September 7, 2018**01-C-12-2018**

It is moved by Dr. Deborah Hellyer and seconded by Mr. Peter Pielsticker that:

The Council accepts the minutes of the meeting of the Council held on September 7, 2018.

CARRIED

Executive Committee's Report to Council, May – November, 2018

Received with no comments.

REGISTRAR/CEO REPORT

• ***Right Touch Regulation and KPIs (Key Performance Indicators)***

Dr. Nancy Whitmore spoke about right touch regulation, an approach that has been adopted by a number of regulatory bodies. The concept is consistent with an improved approach to investigations, which is to triage complaints on the basis of risk of harm to the public and to offer management of lower risk complaints using alternative dispute resolution. Originating with the Professional Standards Authority in the United Kingdom, the six principles of right touch regulation are: proportionate, consistent, targeted, transparent, accountable, and agile.

Dr. Whitmore also spoke to a new approach to Quality Assurance and Quality Improvement. The College is developing several new self-assessment tools that will increase our proactive engagement with physicians at all stages of their careers and help create conditions most favorable to ensuring their success. The presentation is attached as **Appendix "A"** to these minutes.

Medical Assistance in Dying (MAID): Federal Reporting Requirements and Policy Update

02-C-12-2018

It is moved by Dr. Barbara Lent and seconded by Dr. Judith Plante that:

The Council approves the revised policy "Medical Assistance in Dying", (a copy of which forms Appendix "B" to the minutes of this meeting) as a policy of the College.

CARRIED

Policy Redesign – Proposed Approach

Council considered a redesign of Council's current Policies, as set out in **Appendix "C"** of these minutes.

**DRAFT PROCEEDINGS OF THE MEETING OF COUNCIL
December 6, 2018
Page 3**

03-C-12-2018

It is moved by Ms. Joan Fisk and seconded by Dr. Akbar Panju that:

Council directs staff to redesign Council's current Policies in accordance with the approach set out in the briefing note dated November 16, 2018, and to bring the redesigned Policies to it for consideration.

CARRIED

Approval to Rescind the Following Three Policies: (1) Anabolic Steroids, Substances and Methods Prohibited in Sport; (2) Female Genital Cutting (Mutilation); and (3) Fetal Ultrasound for Non-Medical Reasons

(1) Anabolic Steroids:

04-C-12-2018

It is moved by Major Khalifa, and seconded by Dr. Jerry Rosenblum, that:

The Council rescind the College's Policy on *Anabolic Steroids, Substances and Methods Prohibited in Sport* (a copy of which forms Appendix "D" to the minutes of this meeting).

CARRIED

(2) Female Genital Cutting (Mutilation): Deferred.

(3) Fetal Ultrasound for Non-Medical Reasons

05-C-12-2018

It is moved by Ms. Ellen Mary Mills and seconded by Ms. Lynne Cram, that:

The Council rescind the College's Policy on *Fetal Ultrasound for Non-Medical Reasons* (a copy of which forms Appendix "E" to the minutes of this meeting).

CARRIED

Motion to Go In Camera

06-C-12-2018

It is moved by Dr. David Rouselle and seconded by Dr. Elizabeth Samson, that:

DRAFT PROCEEDINGS OF THE MEETING OF COUNCIL

December 6, 2018

Page 4

The Council exclude the public from the part of the meeting immediately after the lunch break under clauses 7(2)(d) of the Health Professions Procedural Code.

CARRIED

IN CAMERA

Council entered into an in camera session at 1:00 pm. and returned to open session at 1:20 pm.

EDUCATIONAL PRESENTATION

Cultural Competency/Truth and Reconciliation

Guest Speaker: *George Couchie*

George Couchie, of Redtail Hawk Training and Consulting, led Council in a session about the importance of understanding Indigenous realities and the concept of reconciliation. A copy of the slide presentation is attached as **Appendix "F"** to the minutes of this meeting.

CPSO Governance Review - Recommendations for Governance Change

Council adopted several recommendations to modernize the governance of the College.

06-C-12-2018

It is moved by Ms Joan Fisk and seconded by Dr. Paul Hendry, that:

The Council supports a move toward a competency-based board model for Council, whereby the members of Council would collectively have desired attributes and competencies. In so doing, the Council recommends that the College seek legislative change, to be completed within three years:

1. to provide that Council be composed of 50% public members and 50% physician members;
2. to reduce the size of the Council of each College governed by the *RHPA* to between eight and sixteen members, with the exact number to be determined by each College;
3. to allow each College governed by the *RHPA* to have the flexibility to determine whether an Executive Committee is required;
4. to prevent overlap in membership between Council and statutory committees;
5. to allow a hybrid model for selecting Council members, with some competency-based appointments and some elected positions for physician members; and
6. to allow each College that is governed by the *RHPA* to provide for equal compensation for the public members and the physician members of Council and committees.

DRAFT PROCEEDINGS OF THE MEETING OF COUNCIL

December 6, 2018

Page 5

Motion to Postpone

Dr. Rapin, seconded by Dr. Elizabeth Samson, moved to postpone the motion to a future meeting. The motion to postpone was defeated.

Motion to Amend**07-C-12-2018**

Dr. Judith Plante, seconded by Dr. Jerry Rosenblum, moved an amendment to #2 of the motion change the size of the Council from between eight and sixteen, to between twelve and sixteen members as follows:

The Council supports a move toward a competency-based board model for Council, whereby the members of Council would collectively have desired attributes and competencies. In so doing, the Council recommends that the College seek legislative change, to be completed within three years:

1. to provide that Council be composed of 50% public members and 50% physician members;
2. to reduce the size of the Council of each College governed by the *RHPA* to between twelve and sixteen members, with the exact number to be determined by each College;
3. to allow each College governed by the *RHPA* to have the flexibility to determine whether an Executive Committee is required;
4. to prevent overlap in membership between Council and statutory committees;
5. to allow a hybrid model for selecting Council members, with some competency-based appointments and some elected positions for physician members; and
6. to allow each College that is governed by the *RHPA* to provide for equal compensation for the public members and the physician members of Council and committees.

CARRIED

Register By-law Amendments (circulated in September)

Council approved the amendments to the General By-law relating to the public register and mandatory reporting.

08-C-12-2018

It is moved by Dr. Deborah Hellyer and seconded by Ms. Ellen Mary Mills, that:

The Council of the College of Physicians and Surgeons of Ontario makes the following By-law No. 120:

By-law No. 120

1. Paragraph 49(1)19 of By-law No. 1 (the General By-Law) is revoked and the following is substituted:

DRAFT PROCEEDINGS OF THE MEETING OF COUNCIL

December 6, 2018

Page 6

19. Where there has been a finding of guilt against a member under the *Health Insurance Act*, made on or after June 1, 2015, and if the finding and/or appeal is known to the College:
- (i) a brief summary of the finding;
 - (ii) a brief summary of the sentence;
 - (iii) where the finding is under appeal, a notation that it is under appeal, until the appeal is finally disposed of; and
 - (iv) the dates of (i)-(iii), if known to the College,
- except if one or more of the conditions set out in section 1(2) of Ontario Regulation 261/18 have been satisfied.
2. Paragraph 49(1)20 of By-law No. 1 (the General By-Law) is revoked and the following is substituted:
20. Any currently existing conditions of release following a charge for a *Health Insurance Act* offence, or subsequent to a finding of guilt under the *Health Insurance Act* and pending appeal, or any variations to those conditions, when known to the College.
3. Paragraphs 49(1)21 and 23 of By-law No. 1 (the General By-law) are revoked and the following are substituted:
21. In respect of a decision of the Inquiries, Complaints and Reports Committee that includes a disposition of a caution-in-person, if the complaint that led to the decision, or, in a case where there is no complaint, the first appointment of investigators in the file, is dated on or after January 1, 2015, a summary of that decision, and, where applicable, a notation that the decision has been appealed or reviewed.
23. In respect of a decision of the Inquiries, Complaints and Reports Committee that includes a disposition of a Specified Continuing Education or Remediation Program (“SCERP”), if the complaint that led to the decision, or, in a case where there is no complaint, the first appointment of investigators in the file is dated on or after January 1, 2015, a summary of that decision, including the elements of the SCERP, and, where applicable, a notation that the decision has been appealed or reviewed.
4. Paragraph 49(1)26 of By-law No. 1 (the General By-Law) is revoked and the following is substituted:
26. Where a member has been charged with an offence under the *Health Insurance Act*, and the charge is outstanding and is known to the College, the fact and content of the charge and, if known to the College, the date and place of the charge.
5. Paragraphs 49(1)27 and 28 of By-law No. 1 (the General By-Law) are revoked.
6. Paragraph 51(1)(d) of By-law No. 1 (the General By-Law) is revoked.

CARRIED

ITEMS FOR INFORMATION

Annual Committee Reports

1. Discipline Committee
2. Education Committee
3. Executive Committee
4. Fitness to Practise Committee
5. Governance Committee
6. Inquiries, Complaints and Reports Committee
7. Outreach Committee
8. Patients Relations Committee
9. Premises Inspection Committee
10. Quality Assurance Committee
11. Registration Committee

ADJOURNMENT DAY 1

As there was no further business, the President adjourned the meeting at 4:05 pm.

Dr. Steven Bodley, President

Ellen Spiegel, Recording Secretary

**DRAFT PROCEEDINGS OF THE
MEETING OF COUNCIL
OF
THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO
December 7, 2018**

Attendees:

Dr. Steven Bodley (President)
 Dr. Philip Berger
 Dr. Brenda Copps
 Ms. Lynne Cram
 Mr. Harry Erlichman
 Ms. Joan Fisk
 Mr. Pierre Giroux
 Dr. Deborah Hellyer
 Dr. Paul Hendry
 Mr. Mehdi Kanji
 Ms. Catherine Kerr
 Major Abdul Khalifa
 Mr. John Langs
 Dr. Barbara Lent
 Dr. Haidar Mahmoud

Mr. Paul Malette
 Ms. Ellen Mary Mills
 Ms. Judy Mintz
 Dr. Akbar Panju
 Mr. Peter Pielsticker
 Dr. Dennis Pitt
 Dr. Judith Plante
 Dr. Peeter Poldre
 Dr. John Rapin
 Dr. Jerry Rosenblum
 Dr. David Rouselle
 Dr. Patrick Safieh
 Dr. Elizabeth Samson
 Ms. Gerry Sparrow
 Dr. Andrew Turner
 Dr. Scott Wooder

Non-voting Academic Representatives on Council: Dr. Mary Bell and Dr. Robert (Bob) Smith

Regrets: Dr. Rob Gratton, Ms. Joan Powell, Dr. Janet van Vlymen

CALL TO ORDER

President's Announcements

The President called the meeting to order at 9 am.

Report of the Finance and Audit Committee

Mr. Peter Pielsticker presented a report of the activities of the Finance Committee.

2019 Budget**09-C-12-2018**

It is moved by Dr. Andrew Turner and seconded by Dr. Jerry Rosenblum, that:

The Council approve the "Budget for 2019" (a copy of which forms Appendix "G" to the minutes of this meeting) authorizing expenditures for the benefit of the College during the year 2019.

CARRIED

Fees By-law Amendment – Council and Committee Remuneration

10-C-12-2018

It is moved by Dr. Patrick Safieh and seconded by Mr. Pierre Giroux, that:

The Council of the College of Physicians and Surgeons of Ontario makes the following By-law No. 123:

By-law No. 123

(1) Paragraph 20(3) of By-Law No. 2 (the Fees and Remuneration By-Law) is revoked and the following is substituted, effective January 1, 2019:

(3) The amount payable to members of the council and a committee is, subject to subsections (4) and (8),

- (a) for attendance at, and preparation for, meetings to transact College business, \$497 per half day, and**
- (b) for transacting College committee business by telephone or electronic means of which minutes are taken, the corresponding hourly rate for one hour and then the corresponding half hour rate for the half hour or major part thereof after the first hour.**

(2) Paragraphs 20(4) and (6) of By-Law No. 2 (the Fees and Remuneration By-Law) are revoked and the following are substituted:

(4) The amount payable to members of the council and a committee for travel to or from home, or both, is a maximum of three hours per one way trip at a rate equal to 75% of the hourly rate corresponding to the rate set out in subsection 20(3)(a). No member shall charge the College for the first hour travelled on each portion of the trip.

(6) The amount payable to members of the council and a committee in reimbursement of expenses incurred in the conduct of the council's or committee's business is,

- (a) for travel by common carrier, the member's actual cost for economy air fare and transportation to and from the airports, stations or other terminals, or**
- (b) for travel by VIA 1 if the train fare does not exceed the economy air fare or, if travelling the evening before conducting College business, if the cost of the train fare plus the hotel room does not exceed the economy air fare, or**
- (c) for overnight accommodation and related maintenance (including meals) away from home, the actual amount reasonably spent up to such maximum amount**

set by the College from time to time, for each day away from home for both accommodation and maintenance.

(3) Section 20 of By-Law No. 2 (the Fees and Remuneration By-Law) is amended by adding the following subsection:

(8) The amount payable to the president under subsection 20(3)(a) applies to the following College business:

- (a) Council meetings,
- (b) meetings of committees which the president is required to attend,
- (c) policy working groups,
- (d) outreach and other speaking engagements coordinated by the College, but not including stakeholder meetings outside the College and government relations meetings, and
- (e) conference attendance.

For all other College business conducted by the president (including but not limited to, stakeholder meetings outside the College and government relations meetings), the College shall pay the president a stipend at the rate of \$30,000 per year, or if the president is unable or unwilling to serve any part of the term as president, a pro rata amount for the time served.

CARRIED

Indemnity By-law Amendment

11-C-12-2018

It is moved by Dr. Scott Wooder and seconded by Ms. Ellen Mary Mills, that:

The Council of the College of Physicians and Surgeons of Ontario makes the following By-law No. 122:

By-law No. 122

(4) Subsection 7(1) of the General By-law is revoked and the following is substituted:

Indemnification

7. (1) Every councillor, and his or her heirs, executors and administrators, and estate and effects, shall from time to time and at all times be indemnified and saved harmless by the College from and against,

- (a) all costs, charges and expenses whatsoever that he or she sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him or her, for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him or her, in or about the execution of the duties of his or her office; and
- (b) all other costs, charges and expenses that he or she sustains or incurs in or about or in relation to the affairs thereof,

except such costs, charges or expenses as are occasioned by his or her own willful neglect or default.

CARRIED

PRESIDENT'S TOPICS

Presidential Address: Dr. Steven Bodley

Dr. Steven Bodley delivered his Presidential Address to Council. He reflected on his experiences during his year as President, and the important work that lay ahead. Dr. Bodley thanked the Council, Registrar and College staff for their support throughout his presidential term.

Induction of New President: Dr. Peeter Poldre

Dr. Bodley presented Dr. Poldre with the President's pin and Chain of Office.

Induction of New Members of Council

Dr. Poldre presented Council pins to Dr. Sarah Reid and Dr. Terri Paul, and invited them to take their seats at the Council table.

CPSO Governance Committee Report

1. 2018 Council Performance Assessment Results

Dr. David Rouselle provided an overview of the annual council assessment.

2. Proposed By-law Amendments to Facilitate Public Member Presidents

12-C-12-2018

It is moved by Mr. Pierre Giroux and seconded by Dr. Akbar Panju that:

The Council of the College of Physicians and Surgeons of Ontario makes the following By-law No. 124:

By-law No. 124

- 1. Section 28 of the General By-Law is amended by adding the following as subsection 28(1.1):**
 - (1.1) In this Section 28, councillors appointed to council by the Lieutenant Governor in Council are referred to as “public councillors”, and physician members of council are referred to as “physician councillors”.**

- 2. Subsection 28(2) of the General By-law is revoked and the following is substituted:**
 - (2) The council shall,**
 - (a) annually elect a president and vice-president to hold office starting upon the adjournment of the next annual general meeting (or if elected at an annual general meeting, starting upon the adjournment of that meeting) until the following annual general meeting and, if an election is not so held, the president and vice-president shall continue in office until their successors are elected;**
 - (b) annually appoint the Executive Member Representatives (as defined in subsection 39(1)) to the executive committee. The Executive Member Representatives shall be determined in accordance with the following:**
 - (i) If one or both of the president-elect and the past president-to-be are not physician councillors, or the then current president is unwilling or unable to serve on the executive committee as the past president in the following year, the council shall hold an election of nominees for the remaining number of physician councillor positions required in order to have a minimum of two physician councillors on the executive committee, as required by subsection 39(1);**
 - (ii) If one or both of the president-elect and the past president-to-be are not public councillors, or the then current president is unwilling or unable to serve on the executive committee as the past president in the following year, the council shall hold an election of nominees for the remaining number of public councillor positions required in order to have a minimum of two public councillors on the executive committee as required by subsection 39(1);**
 - (iii) The council shall then hold an election of nominees for the number of unfilled Executive Member Representative positions. The nominees for this election may be physician councillors and /or public councillors;**
 - (iv) All of the elections contemplated under this subsection 28(2)(b) shall be in accordance with the procedure set out in subsection 28(3.1); and**
 - (v) Following such elections, the council shall consider a motion to**

appoint the successful nominees to serve as the Executive Member Representatives starting upon the adjournment of the next annual general meeting (or if appointed at an annual general meeting, starting upon the adjournment of that meeting) until the following annual general meeting; and

- (c) at the annual general meeting, approve a budget authorizing expenditures for the benefit of the College during the following fiscal year.

3. Subsection 28(3) of the General By-Law is revoked.

4. Subsection 28(3.1) of the General By-law is revoked and the following is substituted:

(3.1) The procedure for election of the president, vice-president and the Executive Member Representatives shall be as follows:

- (a) If there is only one nominee for an office or position, the presiding officer shall declare the nominee elected by acclamation; or
- (b) If there are two or more nominees for an office or position,
 - (i) prior to the first vote, each of these nominees shall be given an opportunity to speak to the council for a maximum of two minutes about his/her candidacy for the office or position;
 - (ii) that office or position shall be selected by voting by secret ballot, using generally accepted democratic procedures;
 - (iii) the nominee who receives a majority of the votes cast for that office or position shall be declared the successful nominee;
 - (iv) if no nominee receives a majority of the votes cast, the nominee who receives the lowest number of votes shall be deleted from the nomination (subject to clause (v)), and another vote by secret ballot shall be taken. This procedure shall be followed until one nominee receives a majority of the votes cast;
 - (v) if a tie vote occurs between two or more nominees having the lowest number of votes and no nominee receives a majority of the votes cast:
 - i. if there is only one nominee other than the tied nominees, a vote by secret ballot shall be taken to determine which of the tied nominees shall be deleted from the nomination. If the nominees again receive an equal number of votes, the presiding officer shall break the tie by lot; or
 - ii. if there are two or more nominees other than the tied nominees, all of the tied nominees shall be deleted from the nomination; and

- (vi) if the nominees that remain have an equal number of votes, each of these nominees shall be given an opportunity to speak to the council for a maximum of two minutes about his/her candidacy for the office or position, and then another vote by secret ballot shall be taken. If the nominees again receive an equal number of votes, the presiding officer shall break the tie by lot.

5. Subsection 32(3) of the General By-Law is revoked and the following is substituted:

- (3) If the offices of the president and of the vice-president become vacant concurrently,
 - (a) the longest-serving member of the executive committee who is (i) a member of the College if the president was a member of the College, or (ii) a public councillor (as defined in subsection 28(1.1)) if the president was appointed to council by the Lieutenant Governor in Council, becomes the president *pro tempore* until the council fills the vacancies;
 - (b) the council shall fill both vacancies at a special meeting which the president *pro tempore* shall call for that purpose as soon as practicable after the vacancies occur.

6. Subsection 39(1) of the General By-Law is revoked and the following is substituted:

Executive Committee

- 39. (1) The executive committee shall be composed of the following six members,
 - (a) the president and the vice-president;
 - (b) the past president, subject to clause (c) ; and
 - (c) three or, if the past president is unwilling or unable to serve on the executive committee, four councillors (each, an "Executive Member Representative").

A minimum of two members of the executive committee (regardless of their position on the executive committee) shall be members of the College. A minimum of two members of the executive committee (regardless of their position on the executive committee) shall be councillors appointed to the council by the Lieutenant Governor in Council.

CARRIED

3. 2018-2019 Governance Committee Election

The Council appoints Dr. Jerry Rosenblum (as physician member), Mr. John Langs (as public member), and Ms. Joan Powell (as public member), to the Governance Committee.

4. Committee Membership Appointments for 2018-2019

13-C-12-2018

It is moved by Ms. Lynne Cram and seconded by Dr. Brenda Copps that:

The Council appoints the following people to the following committees:

Council Award Selection Committee

Dr. Steven Bodley
Ms. Lynne Cram
Dr. Joel Kirsh
Dr. Peeter Poldre
Dr. David Rouselle

Discipline Committee

Dr. Ida Ackerman	Dr. Tracey Moriarity
Dr. Philip Berger	Dr. Joanne Nicholson
Dr. Vinita Bindlish	Dr. Terri Paul
Dr. Steven Bodley	Mr. Peter Pielsticker
Dr. Paul Casola	Dr. Dennis Pitt
Dr. Pamela Chart	Dr. John Rapin
Dr. Carole Clapperton	Dr. Patrick Safieh
Dr. Melinda Davie	Dr. Elizabeth Samson
Dr. Paul Garfinkel	Dr. Harvey Schipper
Mr. Pierre Giroux	Dr. Robert Sheppard
Dr. Kristen Hallett	Dr. Fay Sliwin
Dr. Deborah Hellyer	Dr. Robert Smith
Dr. Paul Hendry	Ms. Gerry Sparrow
Dr. Stephen Hucker	Dr. Eric Stanton
Major Abdul Khalifa	Dr. Andrew Turner
Dr. William L. M. King	Dr. Yvonne Verbeeten
Mr. John Langs	Dr. James Watters
Dr. Barbara Lent	Dr. Scott Wooder
Dr. Bill McCready	Dr. Susanne Yanivker
Mr. Paul Malette	Dr. Sheila-Mae Young
Ms. Ellen Mary Mills	Dr. Paul Ziter
Dr. Veronica Mohr	

Education Committee

Dr. Mary Jane Bell	Ms. Joan Powell
Dr. Paul Hendry	Dr Sarah Reid
Dr. Akbar Panju	Dr. Suzan Schneeweiss
Dr. Terri Paul	Dr. Robert Smith

DRAFT PROCEEDINGS OF THE MEETING OF COUNCIL**December 7, 2018****Page 9**

Dr. Janet van Vlymen

Finance and Audit Committee

Dr. Thomas Bertoia
 Dr. Brenda Copps
 Mr. Harry Erlichman
 Mr. Pierre Giroux
 Dr. Rob Gratton
 Mr. Peter Pielsticker
 Dr. Peeter Poldre

Fitness to Practise Committee

Dr. Steven Bodley
 Dr. Pamela Chart
 Dr. Carole Clapperton
 Dr. Melinda Davie
 Dr. Paul Garfinkel
 Dr. Deborah Hellyer
 Major Abdul Khalifa
 Dr. William L. M. King

Mr. John Langs
 Dr. Barbara Lent
 Dr. Bill McCready
 Dr. Tracey Moriarity
 Dr. Dennis Pitt
 Dr. Robert Sheppard
 Dr. Eric Stanton
 Dr. Paul Ziter

Governance Committee

Dr. Steven Bodley
 Dr. Brenda Copps
 Mr. John Langs
 Dr. Peeter Poldre
 Ms. Joan Powell
 Dr. Jerry Rosenblum

Inquiries, Complaints and Reports Committee

Dr. George Arnold
 Dr. Haig Basmajian
 Dr. George Beiko
 Dr. Mary Jane Bell
 Dr. Harvey Blankenstein
 Dr. Brian Burke
 Dr. Bob Byrick
 Dr. Angela Carol
 Dr. Anil Chopra
 Dr. Brenda Copps
 Ms. Lynne Cram
 Dr. Nazim Damji
 Dr. Naveen Dayal

Dr. Mary Jean Duncan
 Dr. William Dunlop
 Mr. Harry Erlichman
 Dr. Gil Faclier
 Dr. Thomas Faulds
 Ms. Joan Fisk
 Dr. Rob Gratton
 Dr. Daniel Greben
 Dr. Andrew Hamilton
 Dr. Christine Harrison
 Dr. Keith Hay
 Dr. Elaine Herer
 Dr. Robert Hollenberg

DRAFT PROCEEDINGS OF THE MEETING OF COUNCIL**December 7, 2018****Page 10**

Dr. Nasimul Huq
 Dr. Francis Jarrett
 Dr. John Jeffrey
 Ms. Catherine Kerr
 Dr. Carol Leet
 Dr. Edith Linkenheil
 Dr. Haidar Mahmoud
 Dr. Jack Mandel
 Dr. Edward Margolin
 Dr. Bill McCauley
 Dr. Robert McMurtry
 Dr. Dale Mercer
 Ms. Judy Mintz
 Dr. Robert Myers
 Dr. Akbar Panju
 Dr. Judith Plante
 Ms. Joan Powell
 Dr. Sadhana Prasad

Dr. Peter Prendergast
 Dr. Anita Rachlis
 Dr. Val Rachlis
 Dr. Michael Rogelstad
 Dr. Jerry Rosenblum
 Dr. Nathan Roth
 Dr. David Rouselle
 Dr. Dori Seccareccia
 Dr. Ken Shulman
 Dr. Wayne Spotswood
 Dr. Michael Szul
 Dr. Lynne Thurling
 Dr. Anne Walsh
 Dr. Donald Wasylenki
 Dr. Stephen White
 Dr. Stephen Whittaker
 Dr. Lesley Wiesenfeld
 Dr. Jim Wilson

Outreach Committee

Dr. Steven Bodley
 Dr. Brenda Copps
 Ms. Lynne Cram
 Mr. Pierre Giroux
 Mr. John Langs
 Dr. Peeter Poldre
 Dr. Jerry Rosenblum
 Ms. Gerry Sparrow

Patient Relations Committee

Dr. Rajiv Bhatla
 Ms. Julie Kirkpatrick
 Ms. Lisa McCool-Philbin
 Dr. Heather Sylvester
 Dr. Angela Wang
 Dr. Jennifer Wyman

Premises Inspection Committee

Dr. El-Tantawy Attia, PhD
 Dr. Steven Bodley
 Dr. Andrew Browning
 Dr. Bob Byrick
 Dr. John Davidson
 Dr. Bill Dixon

Dr. Marjorie Dixon
 Dr. Mark Mensour
 Ms. Ellen Mary Mills
 Dr. Gillian Oliver
 Mr. Peter Pielsticker
 Dr. Dennis Pitt

DRAFT PROCEEDINGS OF THE MEETING OF COUNCIL**December 7, 2018****Page 11**

Mr. Ron Pratt
Dr. Jerry Rosenblum

Dr. Andrew Turner
Dr. James Watson

Quality Assurance Committee

Dr. Steven Bodley
Dr. Lisa Bromley
Dr. Jacques Dostaler
Dr. Miriam Ghali Eskander
Mr. Pierre Giroux
Dr. Deborah Hellyer
Dr. Hugh Kendall
Mr. John Langs
Dr. Barbara Lent
Dr. Meredith MacKenzie
Dr. Bill McCready
Mr. Peter Pielsticker

Dr. Deborah Robertson
Dr. Patrick Safieh
Dr. Ashraf Sefin
Dr. Bernard Seguin
Dr. Robert Smith
Dr. Leslie Solomon
Dr. Tina Tao
Dr. Smiley Tsao
Dr. Janet van Vlymen
Dr. James Watters
Dr. Scott Wooder

Registration Committee

Dr. Bob Byrick
Mr. Harry Erlichman
Mr. Pierre Giroux
Dr. John Jeffrey
Dr. Barbara Lent

Dr. Akbar Panju
Dr. Judith Plante
Ms. Joan Powell
Dr. Kim Turner

CARRIED**For Information****4. Completion of Annual Declaration of Adherence Form****Member Topics****Communications Course**

Dr. Hellyer described the medical cognitive behavioural therapy (CBT) course she recently attended as an excellent learning experience. It covered the integration of cognitive behavior therapy's tested techniques into normal family practice appointments. She suggested that the course would be especially helpful to young physicians.

Public Appointments

Concerns were expressed regarding the impending vacancies in CPSO public appointments. Staff expect the ministry to have the new appointments made in good time, and will keep Council apprised.

DRAFT PROCEEDINGS OF THE MEETING OF COUNCIL

December 7, 2018

Page 12

Succession Planning

Council discussed the need for guidelines on the length of terms for people serving on committees and panels, definitions of committee and panel roles, recruitment requirements, etc. Suggestions were offered to the Governance Committee for consideration.

INFORMATION ITEMS

- 1. Cycle Three Assessment: Office of the Fairness Commissioner Report.**
- 2. 2019 Council Award Recipients**
- 3. Adding Non-Binary Gender Identification in the Register**
- 4. Government Relations Report**
- 5. 2018 District Council Elections**
- 6. Discipline Committee Report of Completed Cases, December 2018**
- 7. Independent Legal Advice Program for Complainants/Witnesses in Discipline Hearings relating to Sexual Misconduct**
- 8. Policy Report**

ADJOURNMENT DAY 2

As there was no further business, the President adjourned the meeting at 11:26 am.

Dr. Steven Bodley, President

Ellen Spiegel, Recording Secretary

Council Briefing Note

March 2019

**TOPIC: Executive Committee's Report to Council
December – February 2019
*In Accordance with Section 12 HPPC***

FOR INFORMATION

November 6, 2018 Executive Committee Meeting

4. Independent Legal Advice Program for Complainants/Witnesses in Discipline Hearings relating to Sexual Misconduct

The Executive Committee approved extending a pilot project indefinitely to provide independent legal advice (ILA) to complainants/witnesses involved in discipline hearings in which the allegations relate to sexual misconduct. To date, seven witnesses have taken advantage of the ILA program, which offers a maximum of 3 three hours of legal advice. Participants stated that the ILA program was “extremely helpful” for gaining an understanding of what to expect in terms of how legal proceedings work.

Members of the Executive Committee agreed that such a program is important to support victims of sexual abuse by physicians.

2-EX-Nov-2018 Upon a motion by Peeter Poldre and seconded by Lynne Cram and CARRIED, the Executive Committee supports in principle the continuation of the independent legal advice program, subject to annual reviews of expenditures by the Finance Committee.

Contact: Peeter Poldre, President
Lisa Brownstone, x 472

Date: February 4, 2019

Council Briefing Note

February 8, 2019

TOPIC: COUNCIL AWARD RECIPIENT
FOR INFORMATION

ISSUE:

At the March 1st meeting of Council, **Dr. Rayfel Schneider** of Toronto will receive the Council Award.

BACKGROUND:

The Council Award honours Ontario physicians who have demonstrated excellence based on eight “physician roles”:

- The physician as medical expert/clinical decision maker
- The physician as communicator
- The physician as collaborator
- The physician as gatekeeper/resource manager
- The physician as health advocate
- The physician as learner
- The physician as scientist/scholar
- The physician as person and professional

CURRENT STATUS:

Council member Dr. Patrick Safieh will present the award.

DECISION FOR COUNCIL:

No decisions required.

Contact: Tracey Sobers, Ext. 402

Date: February 8, 2019

Council Briefing Note

March 2019

TOPIC: Physician Council Member Prep Time

FOR DISCUSSION

ISSUE:

- Committee Chairs have been asked to consider committee efficiencies, by the Finance Committee. As part of this, a summary of prep time claims submitted by physician Council members in 2018 has been prepared, which shows some variation. Council is asked what should be done to standardize the approach to prep time for Council.

BACKGROUND:

- In October of 2018, the Finance Committee passed a motion as follows: 'Committee Chairs should include, in their Annual Report to Council, information about how their Committee has addressed, in the previous year, efficiencies in the performance of their committee responsibilities.'
- To that end, as as part of an overall focus on improving the efficiency of CPSO meetings, staff have been reviewing various processes relating to the management of committee meetings.
- For example, Council has successfully moved from paper binders to electronic materials, and several committees are moving from in person meetings to teleconferences where this is appropriate.

CURRENT STATUS:

- Prep time submissions for physician council members in 2018 have been summarized in Appendix A.
- For each meeting, the median (the number at which half of the values are above and half are below) is reflected.
- Prep time submissions range from 0 to 7 hours, with the medians ranging from 1.8 to 3 and the materials packages ranging from 182 to 636 pages.

CONSIDERATIONS:

- Council members are expected to prepare for Council meetings by reviewing the materials.
- There are reasons why prep time may vary ie. newer council members may require more time to review materials than more experienced members familiar with the issues, reading speed, etc.
- Council materials usually include key documents to support decisions (briefing notes) as well as considerable background. Efforts are being made to 1) reduce the length of briefing notes 2) to replace lengthy background documents with links and 3) to be clearer about what is essential for review and what is for information only.

NEXT STEPS:

- Prep time will continue to be tracked on a per meeting basis.
- Work will continue to streamline Council materials.

DISCUSSION:

1. What strategies should Council consider to reduce the variation in prep time?

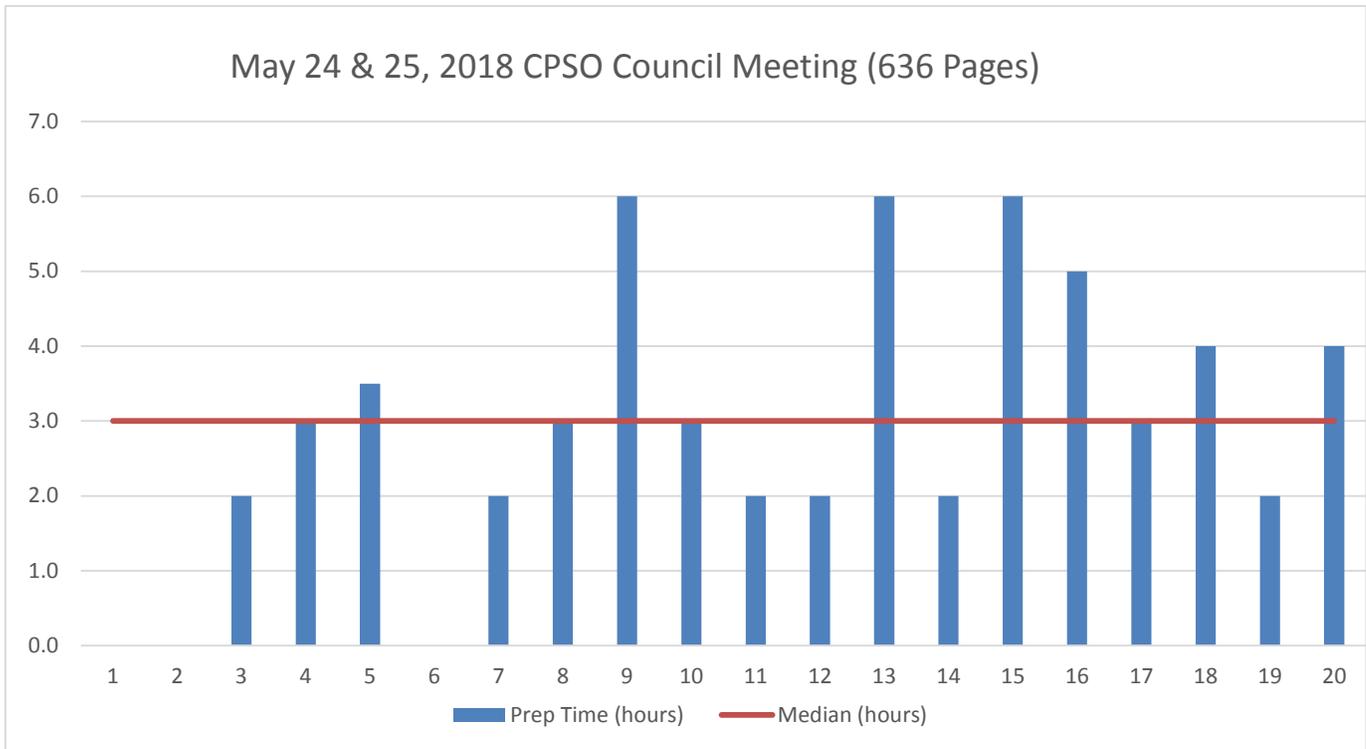
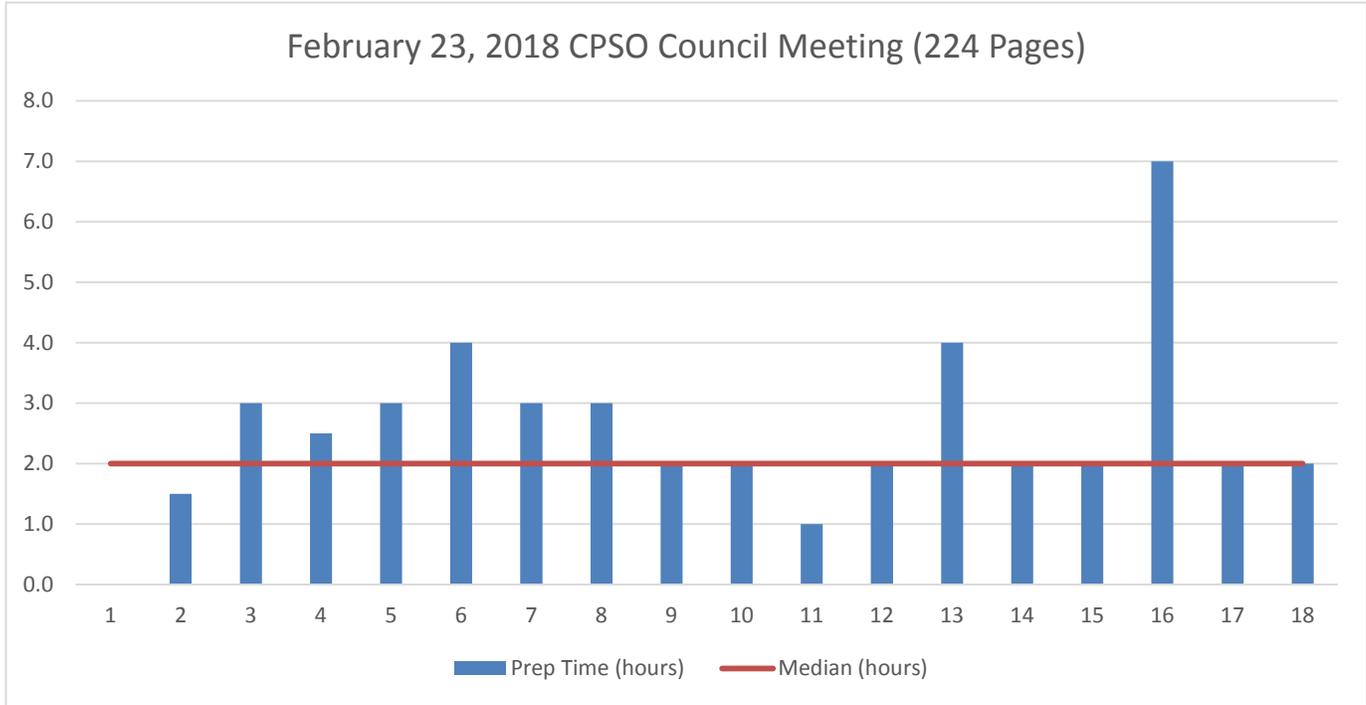
Contact: Peeter Poldre
Maureen Boon, ext 276

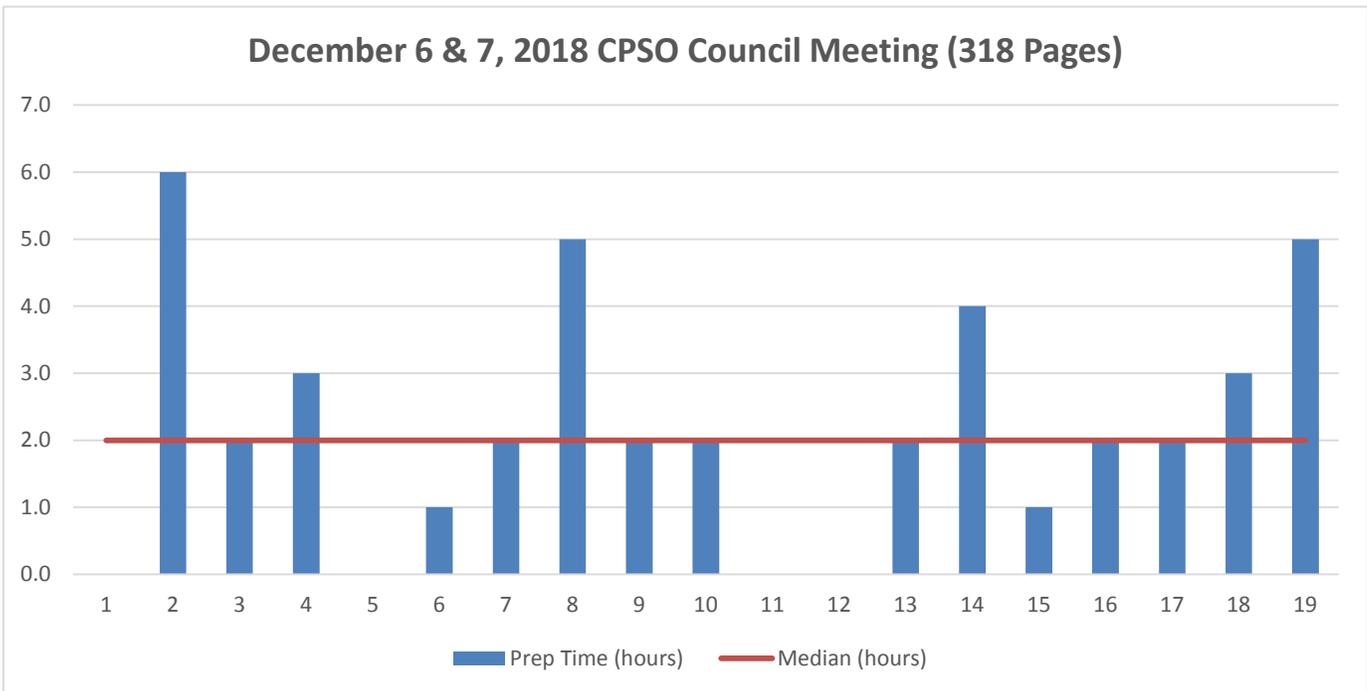
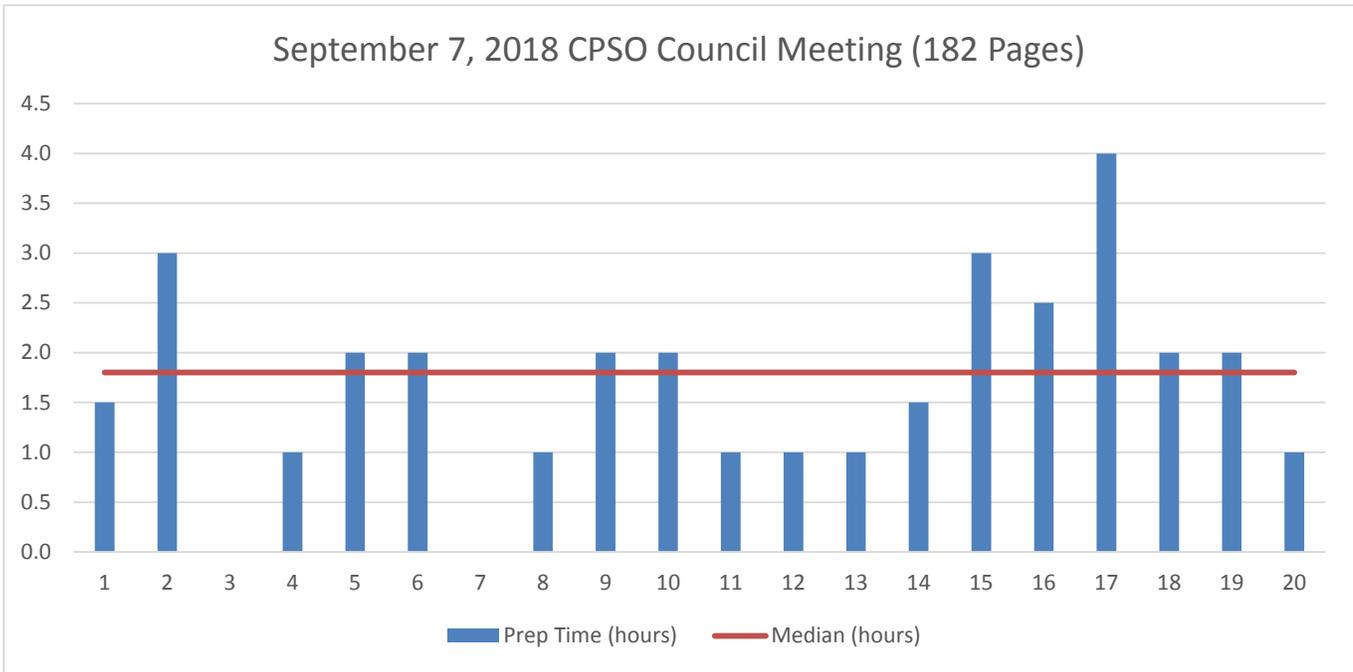
Date: February 11, 2019

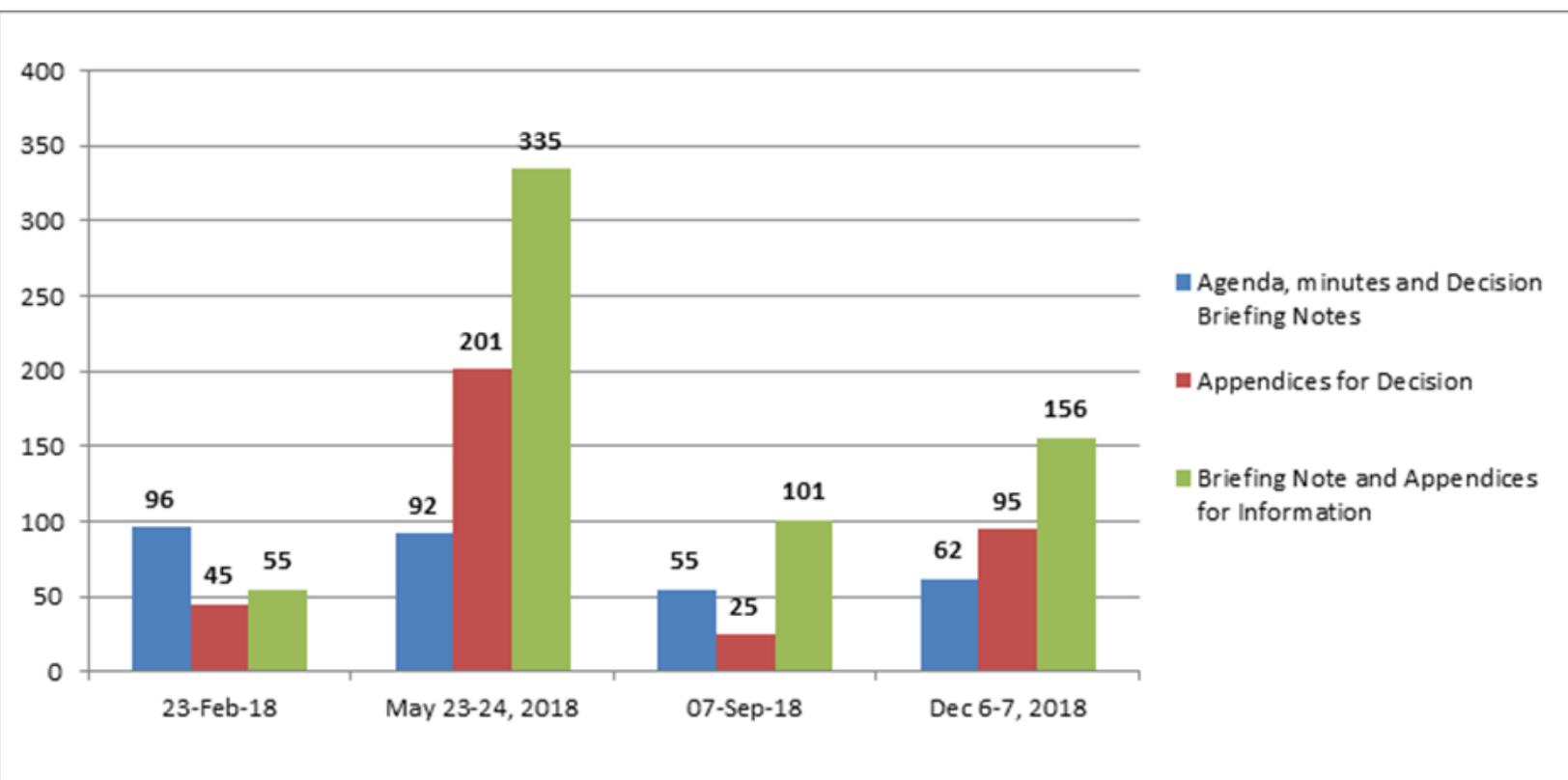
Attachments:

Appendix A: Council Prep Time - 2018

Council Prep Time – 2018







Council Motion

Motion Title: Logo Update

Date of Meeting: March 1, 2019

It is moved by _____,

and seconded by _____, that:

Council approves the updated logo, as set out below:



Council Briefing Note

March 2019

TOPIC: Logo Update Proposal

FOR DECISION

ISSUE:

The CPSO is launching a new modern user-friendly website in April 2019. The current logo does not meet Accessibility for Ontarians with Disabilities Act (AODA) standards and is not suitable for mobile-friendly website usage. Three options to replace the current logo (for website use only) will be presented for Council's final decision and approval.

CURRENT STATUS:

The current logo that the College uses for marketing purposes is strongly based on the traditional Seal and Coat of Arms for the College that were established in the earliest years of the College. As we move through the process of designing a new website, it was brought to our attention that for the purposes of a mobile-friendly website that will offer users the best possible experience, the current logo is not mobile-friendly and is not AODA compliant.

BACKGROUND:

The Coat of Arms and the Seal of the College (which this logo is based on) were established in the earliest years of the College, which the current logo is based on.

Several elements make up the current crest. There is a shield which bears the cross of St. George. The cross contains images on the vertical arm of forceps, a monaural (hearing device), and a foldable lancet; and on the horizontal arm, a surgeon's knife and an amputation saw. The cross divides the shield into quarters display a snake (a variation of the Rod of Asclepius - the traditional symbol of medicine), Ontario's Coat of Arms, the Healing Hand of God and a healthy body.

Beneath the crest reads the College motto: *Fidus in Arcanis*, which has been variously translated into 'Faithful to the Mysteries' or 'Faithful to the Secrets'. This has been interpreted in 2 ways: being faithful to the secrets of the healing arts, or keeping the secrets of patients confidential.

PROPOSAL:

We are proposing an update to the current logo for use **on the website only**. The changes to the logo include:

- Generally modernization of the look and feel, making it less busy
- Removed “The” from the name to make the College title clearer
- Removed Fidus in Arcanis which focusses on secrecy, which can have a negative connotation, and one that appears to contradict transparency
- Removed of the beaver on top of the crown
- Removed forceps, monaural, foldable lancet, surgeon’s knife, and amputation saw – these symbols represent the history of medicine, but have less relevance today.

Option 1:**Option 2:****Option 3:****DECISION FOR COUNCIL:**

1. Council to approve one of the three logo options presented for use on the new website.
-

Contact: Fiona Hill-Hinrichs ext 552

Date: February 8th, 2019

Council Motion

Motion Title: “Alternatives to Degrees in Medicine from Schools Listed in the World Directory of Medical Schools Published by the World Health Organization”, “One Year Canadian Practice Experience Exemption”, Canadian Citizenship/Permanent Resident Status Exemption”, and the “Pre-Entry Assessment Program Exemption” Policies

Date of Meeting: March 1, 2019

It is moved by _____,

and seconded by _____, that:

The Council approves the following amended Policies: “Alternatives to Degrees in Medicine from Schools Listed in the World Directory of Medical Schools Published by the World Health Organization”, “One Year Canadian Practice Experience Exemption”, Canadian Citizenship/Permanent Resident Status Exemption”, and the “Pre-Entry Assessment Program Exemption” (copies of which forms appendix “...” to the minutes of this meeting) as Policies of the College.

Council Briefing Note

March 2019

**TOPIC: SPECIFIC DIRECTION TO THE REGISTRAR REGARDING
REGISTRATION REQUIREMENTS – POLICIES REQUIRING
REVISION**

FOR DECISION

ISSUE:

- In response to previous requests by the Registration Committee and in keeping with the College's 2018-2019 Corporate Plan 7 directives have been developed that allow more efficient processing of applicants' requests outside of the Registration Committee meetings.
- Section 12 of the Ontario Regulation 865/93 which pertains to IMG clinical fellows stipulates that a certificate of registration issued under this section cannot be issued for a period of time exceeding two years. In 2004, Council approved a policy that enables IMG clinical fellows to be enrolled in a clinical fellowship program for a total of three years.
- In the public interest and to meet the Corporate Plan deliverables, the Registration Committee is requesting:
 - 1) an amendment to the current policy, to permit issuance of a certificate of registration to an IMG clinical fellow for a period of up to 5 years, without requiring referral to the Registration Committee, and
 - 2) In accordance with a series of specific directives the Registration Committee has issued to the Registrar which enables staff to register applicants who satisfy the directives without referral to the Registration Committee, the Committee is requesting amendments to applicable Registration Policies.

BACKGROUND

Postgraduate term for (IMG) clinical fellows

- The Committee recognized that fellowships are for the purpose of physicians enriching themselves educationally as specialists beyond the general level of expertise in their primary chosen field of practice. Fellowships enhance both the physicians' future practice and the environment in the institutions where they train, and the Committee, therefore, did not wish to present an obstacle to physicians completing this sub specialized top up training. In light of this, the Registration Committee approved an extension to the term to a maximum of 5 years, provided that the fellow continues in the same discipline (or sub-discipline) and at the same institution.
- Extensions for clinical fellowship beyond 5 years will continue to be presented to the Registration Committee for consideration and approval. A copy of the current policy is included as Appendix A.

Directives

- In December 2018 the Registration Committee issued specific direction to the Registrar regarding certain registration requirements.
- In issuing the directives, the Registration Committee advised the Registrar that it considers a specific registration requirement to be fulfilled if the applicant demonstrates that they have a specific alternate qualification.
- Therefore, where an applicant meets all other Registration Requirements, and satisfies the alternative qualification provided in the Directive, the Registrar is able to “form the belief that the applicant fulfills the registration requirements, and may proceed to register the applicant” (i.e. the Registrar does not have doubts as to whether the applicant fulfills the “registration requirements”).

CURRENT STATUS:

- In accordance with the Registration Committee's direction, the *Postgraduate Term for Clinical Fellows* policy requires an amendment to correctly reflect the maximum allotted time for a fellowship extension that will not require a review by the Registration Committee. The proposed policy is included as Appendix B.
- In addition, several policies where directives have been issued have language within that indicate that the Registration Committee reviews/approves the applications. To provide increased clarity to the public, and in accordance with the directives, we are recommending that this language be removed from the existing policies. This allows for a staff review instead.

- The revised drafts are included as Appendix C. The existing Policies are included as Appendix D.
- The policies where directives were issued are as follows:
 - Alternatives to Degrees in Medicine from Schools Listed in the World Directory of Medical Schools Published by the World Health Organization Policy
 - One year Canadian Practice Experience Exemption Policy
 - Canadian Citizenship/Permanent Resident Status Exemption Policy
 - Haiti/Uganda/McMaster Exchange Electives
 - Pre-Entry Assessment Program Exemption (PEAP) Policy
 - Postgraduate Term for Clinical Fellows
 - Recognition of Certification Without Examination Issued by the CFPC
- The Directives are included for information only and are attached as Appendix E.

DECISION FOR COUNCIL:

1. Does Council approve the proposed amendments to the *Postgraduate Term for Clinical Fellows* Policy?
2. Does Council approve the proposed amendments to the Registration Policies related to the Directives?

Contact: Dr. Akbar Panju
Wade Hillier, ext. 636
Samantha Tulipano, ext 709

Date: February 8, 2019

Attachments:

Appendix A: Postgraduate Term for Clinical Fellows – Current Policy
Appendix B: Postgraduate Term for Clinical Fellows – Proposed Policy
Appendix C: Proposed Registration Policies
Appendix D: Current Registration Policies
Appendix E: Specific Direction to the Registrar

APPENDIX A

Postgraduate Education Term for Clinical Fellows

This policy applies to all IMG clinical fellows holding a postgraduate education certificate issued under section 12 of the registration regulations. Under the regulation, the certificate terminates after two years. However, this policy enables the College to renew the certificate for ~~one-three~~ additional years, without the need for the College's Registration Committee to approve the third, fourth or fifth year, provided the applicant continues to meet non-exemptible registration standards.

Under this policy, applicants may ~~request apply for~~ an extension for a ~~third year~~third, fourth and/or fifth year, ~~but do not have to submit an application form following their second year~~but will require approval by the College. Any request for extension beyond 36 months, however, will require review and approval by the Registration Committee along with appropriate documentation submitted by the fellow and the medical school.

~~In order to apply, the~~The proposed ~~third year~~third, fourth and/or fifth years must be in the same clinical fellowship program ~~at the same Ontario medical school~~ and enrollment must be continuous ~~from second year~~; the certificate automatically terminates at the end of the ~~third~~third ~~year~~year of the clinical fellowship.

APPENDIX B

Postgraduate Education Term for Clinical Fellows

This policy applies to all IMG clinical fellows holding a postgraduate education certificate issued under section 12 of the registration regulations. Under the regulation, the certificate terminates after two years. However, this policy enables the College to renew the certificate for three additional years, without the need for the College's Registration Committee to approve the third, fourth or fifth year, provided the applicant continues to meet non-exemptible registration standards.

Under this policy, applicants may apply for an extension for a third, fourth and/or fifth year, but will require approval by the College.

The proposed third, fourth and/or fifth years must be in the same clinical fellowship program and enrollment must be continuous; the certificate automatically terminates at the end of the fifth year of the clinical fellowship.

APPENDIX C

Alternatives to Degrees in Medicine from Schools Listed in the World Directory of Medical Schools Published by the World Health Organization

A degree in medicine is defined in section 1 of the Registration Regulation to include the following:

- b. an M.D. or equivalent basic degree in medicine, based upon successful completion of a conventional undergraduate program of education in allopathic medicine that,
 - i. teaches medical principles, knowledge and skills similar to those taught in undergraduate programs of medical education at accredited medical schools,
 - ii. includes at least 130 weeks of instruction over a minimum of thirty-six months, and
 - iii. was, at the time of graduation, listed in the World Directory of Medical Schools published by the World Health Organization.

The Registration Committee accepts an M.D. or equivalent basic degree in medicine from a medical school that was, at the time of graduation, listed in the World Directory of Medical Schools [online registry](#) as satisfying the requirement set out in s. 1 (b)(iii) of the Registration Regulation.

All applicants must satisfy all other criteria for registration.

One Year Canadian Practice Experience Exemption

Requirement For One Year Canadian Practice Experience

The standards and qualifications for the issuance of a certificate of registration authorizing independent practice, set out in Section 3 of Ontario Regulation 865/93, stipulate that the applicant must have:

1. A degree in medicine.
2. Successfully completed Part 1 and Part 2 of the Medical Council of Canada Qualifying Examination.
3. Completed a clerkship at an accredited medical school in Canada; or one year of postgraduate medical education at an accredited medical school in Canada; or one year of active medical practice in Canada.
4. Certification by examination by the Royal College of Physicians and Surgeons of Canada (RCPSC) or the College of Family Physicians of Canada (CFPC); and

In addition, Section 2.-(2)(b)(i) stipulates that the applicant must have Canadian citizenship or Permanent resident status before an independent practice certificate of registration can be issued.

This Policy provides an exemption from the requirement for one year Canadian Practice Experience for physicians otherwise fully qualified for an Independent Practice Certificate of Registration.

Canadian Citizenship/Permanent Resident Status Exemption

Requirement For Canadian Citizenship/Permanent Status Exemption

The standards and qualifications for the issuance of a certificate of registration authorizing independent practice, set out in Section 3 of Ontario Regulation 865/93, stipulate that the applicant must have:

1. A degree in medicine.
2. Successfully completed Part 1 and Part 2 of the Medical Council of Canada Qualifying Examination.
3. Completed a clerkship at an accredited medical school in Canada; or one year of postgraduate medical education at an accredited medical school in Canada; or one year of active medical practice in Canada.
4. Certification by examination by the Royal College of Physicians and Surgeons of Canada (RCPSC) or the College of Family Physicians of Canada (CFPC); and

In addition, Section 2.-(2)(b)(i) stipulates that the applicant must have Canadian citizenship or Permanent resident status before an independent practice certificate of registration can be issued.

This Policy provides an exemption from the requirement for Canadian Citizenship/Permanent Resident Status for physicians otherwise fully qualified for an Independent Practice Certificate of Registration.

Pre-Entry Assessment Program Exemption

Provides exemption from the Pre-Entry Assessment Program requirement for IMGs applying for a postgraduate education certificate to take a residency in Ontario.

An applicant for a postgraduate certificate of registration, who has an appointment to a residency program at an Ontario medical school, may be exempted from the requirement to complete a Pre-entry Assessment Program, provided the applicant satisfies each of (a), (b) and (c) below at the time of applying to the College of Physicians and Surgeons of Ontario:

1. The applicant has already completed, within the last year, one or more years of residency training that is accredited by the Royal College of Physicians and Surgeons of Canada (RCPSC) or the College of Family Physicians of Canada (CFPC), or one or more years of residency training in the USA, that is accredited by the Accreditation Council for Graduate Medical Education.
2. The applicant is entering an Ontario medical school to take either,
 1. A subsequent year of residency in the same discipline or a sub-discipline as the residency already completed; or
 2. A program to obtain recognition by the RCPSC or CFPC in a related discipline or field after having completed the educational requirements for certification by the RCPSC or CFPC.
3. The applicant has passed the Medical Council of Canada Evaluating Examination and completed all other requirements for a certificate of registration for postgraduate education.

Applicants are urged to submit their applications eight to twelve weeks in advance of their expected starting dates in Ontario. The application requires review by the College.

All registration regulations, policies and requirements are subject to change.

APPENDIX D

Alternatives to Degrees in Medicine from Schools Listed in the World Directory of Medical Schools Published by the World Health Organization

A degree in medicine is defined in section 1 of the Registration Regulation to include the following:

- b. an M.D. or equivalent basic degree in medicine, based upon successful completion of a conventional undergraduate program of education in allopathic medicine that,
 - i. teaches medical principles, knowledge and skills similar to those taught in undergraduate programs of medical education at accredited medical schools,
 - ii. includes at least 130 weeks of instruction over a minimum of thirty-six months, and
 - iii. was, at the time of graduation, listed in the World Directory of Medical Schools published by the World Health Organization.

The Registration Committee ~~will~~ accepts an M.D. or equivalent basic degree in medicine from a medical school that was, at the time of graduation, listed in the World Directory of Medical Schools [online registry](#) as satisfying the requirement set out in s. 1 (b)(iii) of the Registration Regulation.

~~All applications submitted under this Policy require review and approval by the College's Registration Committee.~~ All applicants must satisfy all other criteria for registration.

One Year Canadian Practice Experience Exemption

Requirement For One Year Canadian Practice Experience

The standards and qualifications for the issuance of a certificate of registration authorizing independent practice, set out in Section 3 of Ontario Regulation 865/93, stipulate that the applicant must have:

1. A degree in medicine.
2. Successfully completed Part 1 and Part 2 of the Medical Council of Canada Qualifying Examination.
3. Completed a clerkship at an accredited medical school in Canada; or one year of postgraduate medical education at an accredited medical school in Canada; or one year of active medical practice in Canada.
4. Certification by examination by the Royal College of Physicians and Surgeons of Canada (RCPSC) or the College of Family Physicians of Canada (CFPC); and

In addition, Section 2.-(2)(b)(i) stipulates that the applicant must have Canadian citizenship or Permanent resident status before an independent practice certificate of registration can be issued.

This Policy provides an exemption from the requirement for one year Canadian Practice Experience for physicians otherwise fully qualified for an Independent Practice Certificate of Registration.

~~The Registration Committee may direct the Registrar to issue a certificate of registration authorizing independent practice to applicants who are otherwise qualified for an Independent Practice Certificate of Registration and satisfy the non-exemptible requirements set out in Section 2(1) of Ontario Regulation 865/93.~~

Canadian Citizenship/Permanent Resident Status Exemption

Requirement For Canadian Citizenship/Permanent Status Exemption

The standards and qualifications for the issuance of a certificate of registration authorizing independent practice, set out in Section 3 of Ontario Regulation 865/93, stipulate that the applicant must have:

1. A degree in medicine.
2. Successfully completed Part 1 and Part 2 of the Medical Council of Canada Qualifying Examination.
3. Completed a clerkship at an accredited medical school in Canada; or one year of postgraduate medical education at an accredited medical school in Canada; or one year of active medical practice in Canada.
4. Certification by examination by the Royal College of Physicians and Surgeons of Canada (RCPSC) or the College of Family Physicians of Canada (CFPC); and

In addition, Section 2.-(2)(b)(i) stipulates that the applicant must have Canadian citizenship or Permanent resident status before an independent practice certificate of registration can be issued.

This Policy provides an exemption from the requirement for Canadian Citizenship/Permanent Resident Status for physicians otherwise fully qualified for an Independent Practice Certificate of Registration.

~~The Registration Committee may direct the Registrar to issue a certificate of registration authorizing independent practice to applicants who are otherwise qualified for an Independent Practice Certificate of Registration and satisfy the non-exemptible requirements set out in Section 2(1) of Ontario Regulation 865/93.~~

Pre-Entry Assessment Program Exemption

Provides exemption from the Pre-Entry Assessment Program requirement for IMGs applying for a postgraduate education certificate to take a residency in Ontario.

An applicant for a postgraduate certificate of registration, who has an appointment to a residency program at an Ontario medical school, may be exempted from the requirement to complete a Pre-entry Assessment Program, provided the applicant satisfies each of (a), (b) and (c) below at the time of applying to the College of Physicians and Surgeons of Ontario:

1. The applicant has already completed, within the last year, one or more years of residency training that is accredited by the Royal College of Physicians and Surgeons of Canada (RCPSC) or the College of Family Physicians of Canada (CFPC), or one or more years of residency training in the USA, that is accredited by the Accreditation Council for Graduate Medical Education.
2. The applicant is entering an Ontario medical school to take either,
 1. A subsequent year of residency in the same discipline or a sub-discipline as the residency already completed; or
 2. A program to obtain recognition by the RCPSC or CFPC in a related discipline or field after having completed the educational requirements for certification by the RCPSC or CFPC.
3. The applicant has passed the Medical Council of Canada Evaluating Examination and completed all other requirements for a certificate of registration for postgraduate education.

~~All applications submitted under this policy require review and approval by the College's Registration Committee.~~

Applicants are urged to submit their applications eight to twelve weeks in advance of their expected starting dates in Ontario. [The application requires review by the College.](#)

All registration regulations, policies and requirements are subject to change.

APPENDIX E

SPECIFIC DIRECTION TO THE REGISTRAR FROM THE REGISTRATION COMMITTEE

Alternatives to Degrees in Medicine from Schools Listed in the Word Directory of Medical Schools Published by the World Health Organization

Ontario Regulation 856/93 made under the Medicine Act, 1991 (the “Registration Regulation”) defines a “degree in medicine” to include:

- 1(b) an M. D. or equivalent basic degree in medicine, based upon successful completion of a conventional undergraduate program of education in allopathic medicine that,
- i. teaches medical principles, knowledge and skills similar to those taught in undergraduate programs of medical education at accredited medical schools,
 - ii. includes at least 130 weeks of instruction over a minimum of thirty-six months, and
 - iii. was, at the time of graduation, listed in the World Directory of Medical Schools published by the World Health Organization.

In accordance with policy Alternatives to Degrees in Medicine from Schools Listed in the Word Directory of Medical Schools Published by the World Health Organization Policy approved by Council, the Registration Committee considers section 1(b)(iii) of the Registration Regulation to be satisfied if:

- (a) the applicant demonstrates that they hold an M.D. or equivalent basic degree in medicine from a medical school that was, at the time of graduation, listed in the World Directory of Medical Schools [online registry](#) .
- (b) the applicant satisfies all other registration requirements, including non-exemptible registration requirements, for the class of certificate to which they are applying.

SPECIFIC DIRECTION TO THE REGISTRAR FROM THE REGISTRATION COMMITTEE

Recognition of Certification without Examination Issued by CFPC

Ontario Regulation 856/93 made under the Medicine Act, 1991 (the “Registration Regulation”) sets out the standards and qualifications for a certificate of registration authorizing independent practice as including:

3. (1) The standards and qualifications for a certificate of registration authorizing independent practice are as follows:
 1. The applicant must have a degree in medicine.
 2. The applicant must have successfully completed Part 1 and Part 2 of the Medical Council of Canada Qualifying Examination.
 3. The applicant must have completed one of the following:
 - i. A clerkship at an accredited medical school in Canada which meets the criteria of a clerkship in clause (a) of the definition of “degree in medicine” in section 1.
 - ii. A year of postgraduate medical education at an accredited medical school in Canada.
 - iii. A year of active medical practice in Canada which includes significant clinical experience pertinent to the applicant’s area of medical practice.
 4. The applicant must have certification by examination by the Royal College of Physicians and Surgeons of Canada or by the College of Family Physicians of Canada.

In accordance with the policy Recognition of Certification without Examination Issued by the CFPC approved by Council, the Registration Committee considers section 3(1)(4) of the Registration Regulation to be satisfied if:

- (a) the applicant demonstrates that they have obtained certification without examination by the College of Family Physicians of Canada (CFPC)
- (b) the applicant satisfies all other registration requirements, including non-exemptible registration requirements, for an independent practice certificate.

**SPECIFIC DIRECTION TO THE REGISTRAR
FROM THE REGISTRATION COMMITTEE**

Pre-Entry Assessment Program for Postgraduates

The Ontario Regulation 856/93 made under the Medicine Act, 1991 (the “Registration Regulation”) sets out the standards and qualifications for a certificate of registration authorizing postgraduate education as including:

- 11.** (1) The standards and qualifications for a certificate of registration authorizing postgraduate education are that an applicant receive an appointment in a program of postgraduate medical education at an accredited medical school in Ontario after,
- (a) obtaining a degree in medicine described in clause (a) of the definition of “degree in medicine” in section 1; or
 - (b) attaining all of the following:
 - (i) a degree in medicine described in clause (b) of the definition of “degree in medicine” in section 1,
 - (ii) successful completion of,
 - A. the Medical Council of Canada Evaluating Examination, or
 - B. Part 1 of the Medical Council of Canada Qualifying Examination or, if the qualifying examination was written before December 31, 1991, the Medical Council of Canada Qualifying Examination,
 - (iii) reasonable fluency in English or French, and
 - (iv) selection for appointment to the program of postgraduate medical education on the basis of performance in a pre-entry assessment program.

In accordance with the policy Pre-Entry Assessment Program (PEAP) Exemption approved by Council, the Registration Committee considers 11(1)(b)(iv) to be satisfied if at the time of applying:

1. The applicant has already completed, within the last year, one or more years of residency training that is accredited by the Royal College of Physicians and Surgeons of Canada (RCPSC) or the College of Family Physicians of Canada (CFPC), or one or more years of residency training in the USA, that is accredited by the Accreditation Council for Graduate Medical Education.
2. The applicant is entering an Ontario medical school to take either,
 1. A subsequent year of residency in the same discipline or a sub-discipline as the residency already completed; or

2. A program to obtain recognition by the RCPSC or CFPC in a related discipline or field after having completed the educational requirements for certification by the RCPSC or CFPC.
3. The applicant has passed the Medical Council of Canada Evaluating Examination or Part 1 of the Medical Council of Canada Qualifying Examination and completed all other requirements for a certificate of registration for postgraduate education.
4. The applicant has a letter of support from the Dean, responsible for Postgraduate Medical Education.
5. The applicant satisfies all other registration requirements, including non-exemptible registration requirements, for a postgraduate certificate of registration.

**SPECIFIC DIRECTION TO THE REGISTRAR
FROM THE REGISTRATION COMMITTEE**

Doctors of Osteopathic Medicine

Ontario Regulation 856/93 made under the Medicine Act, 1991 (the “Registration Regulation”) defines a “degree in medicine” to include:

- 1(a) an M. D. or equivalent basic degree in medicine from a medical school that was, at the time of graduation, an accredited medical school, based upon successful completion of an undergraduate program of medical education that included a clerkship of at least forty weeks taken as part of the second half of the undergraduate program of medical education that includes,
- (i) clinical education of at least,
 - a) eight weeks in internal medicine,
 - b) eight weeks in surgery,
 - c) four weeks in obstetrics and gynaecology,
 - d) four weeks in paediatrics, and
 - e) four weeks in psychiatry,
 - (ii) clinical education of at least four weeks in family medicine or an alternative program to develop the knowledge, skills, attitudes and behaviours necessary to enter postgraduate education in family medicine or primary medical care,
 - (iii) instruction and experience in both ambulatory and hospital settings, and
 - (iv) the major aspects of acute, chronic, continuing, preventive and rehabilitative care,

In accordance with the Doctors of Osteopathic Medicine Policy approved by Council, The Registration Committee considers section 1(a) of the Registration Regulation to be satisfied if:

- (a) the degree, “Doctor of Osteopathy”, was granted by an osteopathic medical school in the United States that was at the time the degree was granted, accredited by the American Osteopathic Association,
- (b) the applicant satisfies all other registration requirements, including non-exemptible registration requirements, for the class of certificate to which they are applying.

**SPECIFIC DIRECTION TO THE REGISTRAR
FROM THE REGISTRATION COMMITTEE**

Canadian Citizenship/Permanent Resident Status

Ontario Regulation 856/93 made under the Medicine Act, 1991 (the “Registration Regulation”) sets out the standards and qualifications for a certificate of registration authorizing independent practice, as including:

2. (2) It is a standard and qualification for a certificate of registration that the applicant,

(b) has one of the following:

- i. for a certificate of registration authorizing independent practice, Canadian citizenship or permanent resident status,
- ii. for a certificate of registration authorizing academic practice, Canadian citizenship, permanent resident status or a work permit issued under the *Immigration and Refugee Protection Act* (Canada) consistent with the practice for which the certificate is issued, or
- iii. for a certificate of registration authorizing postgraduate education by reason of section 11, 12, 13 or 15, Canadian citizenship, permanent resident status or a work permit issued under the *Immigration and Refugee Protection Act* (Canada) for the program of postgraduate medical education in which the applicant is appointed;

In accordance with the Canadian Citizenship/Permanent Resident Status Exemption Policy approved by Council, the Registration Committee considers section 2.(2)(b)(i) of the Registration Regulation to be satisfied for applicants applying for an independent practice certificate, if:

- (a) the applicant demonstrates that they have satisfied all other requirements prescribed for the issuance of an independent practice certificate, including non-exemptible registration requirements.

**SPECIFIC DIRECTION TO THE REGISTRAR
FROM THE REGISTRATION COMMITTEE**

One year Canadian Practice Experience

Ontario Regulation 856/93 made under the Medicine Act, 1991 (the “Registration Regulation”) sets out the standards and qualifications for a certificate of registration authorizing independent practice as including:

3. (1) The standards and qualifications for a certificate of registration authorizing independent practice are as follows:
1. The applicant must have a degree in medicine.
 2. The applicant must have successfully completed Part 1 and Part 2 of the Medical Council of Canada Qualifying Examination.
 3. The applicant must have completed one of the following:
 - i. A clerkship at an accredited medical school in Canada which meets the criteria of a clerkship in clause (a) of the definition of “degree in medicine” in section 1.
 - ii. A year of postgraduate medical education at an accredited medical school in Canada.
 - iii. A year of active medical practice in Canada which includes significant clinical experience pertinent to the applicant’s area of medical practice.
 4. The applicant must have certification by examination by the Royal College of Physicians and Surgeons of Canada or by the College of Family Physicians of Canada. O. Reg. 865/93, s. 3 (1).

In accordance with the policy One Year Canadian Practice Experience Exemption approved by Council, the Registration Committee considers section 3(1)(3) of the Registration Regulation to be satisfied if:

- (a) the applicant demonstrates that they have satisfied all other requirements prescribed for the issuance of an independent practice certificate, including non-exemptible registration requirements.

**SPECIFIC DIRECTION TO THE REGISTRAR
FROM THE REGISTRATION COMMITTEE**

Haiti/Uganda/Guyana McMaster Exchange Program

The Ontario Regulation 856/93 made under the Medicine Act, 1991 (the “Registration Regulation”) defines the requirements for issuance of a postgraduate certificate of registration as:

- 11.** (1) The standards and qualifications for a certificate of registration authorizing postgraduate education are that an applicant receive an appointment in a program of postgraduate medical education at an accredited medical school in Ontario after,
- a) obtaining a degree in medicine described in clause (a) of the definition of “degree in medicine” in section 1; or
 - b) attaining all of the following:
 - i. a degree in medicine described in clause (b) of the definition of “degree in medicine” in section 1,
 - ii. successful completion of,
 - A. the Medical Council of Canada Evaluating Examination, or
 - B. Part 1 of the Medical Council of Canada Qualifying Examination or, if the qualifying examination was written before December 31, 1991, the Medical Council of Canada Qualifying Examination,
 - iii. reasonable fluency in English or French, and
 - iv. selection for appointment to the program of postgraduate medical education on the basis of performance in a pre-entry assessment program.

In accordance with the **Haiti/Uganda/Guyana McMaster Exchange Program** policy , the Registration Committee considers 11(1)(b) (i) (ii) and (iv)(to be satisfied if at the time of applying:

1. The applicant has received a Letter of Appointment from McMaster University in one of the following disciplines: internal medicine, anaesthesia, obstetrics, paediatrics, orthopaedics, otolaryngology (ENT), family medicine, general surgery, diagnostic imaging and nephrology;
2. The applicant is enrolled in a postgraduate program of medical education at a medical school in Haiti/Uganda or Guyana in one of the following disciplines: internal medicine, anaesthesia, obstetrics, paediatrics, orthopaedics, otolaryngology (ENT), family medicine, general surgery, diagnostic imaging and nephrology;

3. The applicant has completed two years of the postgraduate program with performance acceptable to the College.
4. The applicant has the approval of the head of the program in Haiti/Uganda/Guyana in which he or she is enrolled allowing the applicant to undertake a specified part of the program at McMaster University in one of the following disciplines: internal medicine, anaesthesia, obstetrics, paediatrics, orthopaedics, otolaryngology (ENT), family medicine, general surgery, diagnostic imaging and nephrology;
5. The applicant has the approval from the head of postgraduate medical education at McMaster at which the applicant will complete the specified part of the postgraduate program.
6. The applicant satisfies section 11 (2) of the Registration Regulation.
7. The applicant satisfies all other registration requirements, including the non-exemptible registration requirements, for a postgraduate certificate of registration.

Council Motion



THE
COLLEGE
OF
PHYSICIANS
AND
SURGEONS
OF
ONTARIO

Motion Title: Election for Public member to fill vacancy on 2019 Executive Committee

Date of Meeting: March 1, 2019

It is moved by _____,

and seconded by _____, that:

**The Council appoints _____ (as public member) to the Executive
Committee.**

Council Briefing Note

March 2019

TOPIC: Governance Committee Report

FOR INFORMATION:

- 1. Governance Review/Modernization**
- 2. New Public Members of Council**
- 3. Committee Appointments**

FOR DECISION:

- 4. Election for Public Member to fill vacancy on 2019 Executive Committee**

FOR INFORMATION:

1. Governance Review/Modernization

- At the December 2018 meeting, Council approved the legislative governance recommendations of the Governance Review Working Group, as follows:
 - Increase public member representation so there are equal numbers of physician and public members on the board;
 - Reduce the size of the board from 34 to between 12-16 members;
 - Eliminate overlap between board and statutory committee membership;
 - Implement a competency-based board selection process;
 - Implement a hybrid selection model for physician members;
 - Provide equal compensation for physician and public members of the board; and
 - Retain the option of appointing an Executive Committee
- A letter outlining these recommended legislative changes was sent to the Minister on January 25, 2019 (Appendix 1).
- Work will continue to advocate for these changes, in collaboration with both the CNO and FHRCO.
- It is possible that government could use its authority either to enact regulations under its current regulation-making authority or, to propose new legislation in the spring. However, its intentions are not currently clear.
- Information on non-legislative changes will be discussed at upcoming meeting(s).

Contact: Dr. Steven Bodley, Chair, Governance Committee
Maureen Boon, ext. 276
Suzanne Mascarenhas, ext. 843

2. New Public Members of Council

- Hilary Alexander of Toronto, Ontario was appointed to the CPSO Council by the Lieutenant Governor of Ontario for a one-year term on December 20, 2018 (Appendix 2).
- Ms. Christine Tebbutt of Mississauga, Ontario was appointed for a one-year term on January 1, 2019. (Appendix 3).
- There is currently one vacancy for a public member. We are hopeful that the government will soon appoint a public member of Council to fill the vacant position.

3. Committee Appointments

- At the Executive Committee meeting held on January 15, 2019, the following committee appointments were made:
 - Hilary Alexander (new public member) – ICR Committee
 - Christine Tebbutt (new public member) – Discipline and Fitness to Practise Committees
 - Dr. Ken Lee (non-council member) – Quality Assurance Committee
 - Dr. Ben Chen and Dr. David Finkelstein (new Medical Advisors) – ICR Committee

FOR DECISION:

4. Election for Public Member to fill vacancy on 2019 Executive Committee

ISSUE:

- There will be an election for one public member to fill a vacancy on the 2019 Executive Committee.
- Four public members have submitted nominations for one public member position:
 - Ms. Hilary Alexander
 - Ms. Joan Fisk
 - Mr. Pierre Giroux
 - Ms. Ellen Mary Mills
- Nomination Statements for candidates are included in Appendix 4.
- Public member candidates will be invited to address Council, prior to the vote.

DECISION FOR COUNCIL:

1. Council will vote for one public member to fill vacancy on the 2019 Executive Committee.
-

Contact: Dr. Steven Bodley, Chair Governance Committee
Debbie McLaren, ext. 371

Date: February 13, 2019

Attachments:

Appendix 1: CPSO Letter to the Minister

Appendix 2: Order in Council for Hilary Alexander

Appendix 3: Order in Council for Christine Tebbutt

Appendix 4: Nominations Statements for: Hilary Alexander, Joan Fisk, Pierre Giroux and Ellen Mary Mills



January 25, 2019

The Honourable Christine Elliott, MPP
Deputy Premier and Minister of Health and Long-Term Care
10th Floor, Hepburn Block
80 Grosvenor Street Toronto,
Ontario M7A 2C4

Dear Minister,

RE: Governance reform recommendations

Thank you for taking the time to meet with us to discuss the important shared issues between the government and the College of Physicians and Surgeons of Ontario (CPSO). We were encouraged by our discussion with you and your general support of our work to modernize and improve the College's governance structure.

We write to provide you with our recommendations for a more efficient and effective governance structure that we believe will strengthen public confidence in the regulatory system. Our work has been informed by available evidence and the recommendations from the College of Nurses of Ontario.

Recommendations to modernize CPSO's governance structure include the following:

1. Increase public member representation so there are equal numbers of physician and public members on the board;
2. Reduce the size of the board from 34 to between 12-16 members;
3. Eliminate overlap between board and statutory committee membership;
4. Implement a competency-based board selection process;
5. Implement a hybrid selection model for physician members;
6. Provide equal compensation for physician and public members of the board;
7. Retain the option of appointing an Executive Committee.

The accompanying attachment provides the detailed rationale and the legislative change(s) required to achieve each recommendation. We look forward to working together to modernize the CPSO board to better serve the people of Ontario.

Yours truly,

Peeter Poldre, MD, EdD, FRCPC
President

Nancy Whitmore, MD, FRCSC, MBA
Registrar and Chief Executive Officer

Encl. CPSO Governance Review: Recommendations, Rationale and Required Legislative Changes

cc. Helen Angus, Deputy Minister of Health and Long-Term Care
Heather Watt, Chief of Staff, Minister of Health and Long-Term Care
Patrick Dicerni, Assistant Deputy Minister, Strategic Policy and Planning Division

CPSO Governance Review: Recommendations, Rationale, and Required Legislative Changes

Recommendation	Rationale	Required Legislative Changes ¹
<p>1. Increase public member representation so there are equal numbers of physician and public members on the board.</p>	<p>Public members occupy less than half or 44% of board positions (when gov't appoints the full complement of 15 members). Equal public/professional board membership is increasingly accepted as a best practice internationally.</p> <p>This change will ensure a balance between public and physician expertise and competencies in regulation and help strengthen public confidence in the regulatory system.</p>	<p>Medicine Act, s. 6(1), which currently requires 15-16 professional members and 13-15 public members, plus 3 academic representatives.</p>
<p>2. Reduce the size of the board from 34 to between 12-16 members.</p>	<p>A 34 member board is too large. Literature supports smaller boards as being more effective and efficient in decision making. The range is intended to provide flexibility to achieve the right combination of competencies.</p>	<p>Medicine Act, s. 6(1), which currently requires 15-16 professional members and 13-15 public members, plus 3 academic representatives.</p>
<p>3. Eliminate overlap between board and statutory committee membership.</p>	<p>Existing quorum requirements require board member participation on some statutory committees. These requirements are particularly onerous for public board members who must provide between 100 and 120 days of work as board and committee members each year.</p> <p>Separation between the board and statutory committees is considered a best practice. Board and statutory committees have very different roles (oversight/strategic for the board vs. adjudicative for statutory committees).</p> <p>Separation in membership from the board will enhance the integrity and independence of the board and statutory committees, and help strengthen public confidence in the regulatory system.</p>	<p>Section 10(3) of the Code currently requires the composition of committees to be set by by-law, although a number of sections in the Code set composition and quorum requirements for the following statutory committee panels:</p> <ul style="list-style-type: none"> - s. 17(2): Registration Committee panels - s. 25(2) and (3): ICRC panels - s. 38(2-5): Discipline Committee panels - s. 64(2-3): Fitness to Practice Committee panels <p>Once Bill 87 amendments to the RHPA and the Code are proclaimed, composition and quorum requirements for these committees will be set by regulation.</p> <p>New regulations therefore need to be developed pursuant to the RHPA, s. 43(1)(p) to (s) and the Code, s. 94(1)(h.1)-(h.4).</p>
<p>4. Implement a competency-based board selection process.</p>	<p>Competency-based board selection for physician and public members support the right mix of knowledge, skills and experience amongst board members to ensure the board is able to effectively discharge its functions.</p> <p>A competency based selection process is considered a best</p>	<p>For professional members: the Medicine Act, s. 6(1) currently requires members to be “elected in accordance with the by-laws.” This would need to be amended to permit members to be “selected” in accordance with the by-laws. Supporting by-law changes could then be made to facilitate this change.</p>

¹ NB: This list is not comprehensive – other incidental changes may also be required.

Recommendation	Rationale	Required Legislative Changes ¹
	practice.	<p>Other consequential legislative changes may also be required (for example, s. 5 of the Code which provides for the term of elected Council members).</p> <p>For public members: there are different options available to accomplish this change. Medicine Act, s. 6(1) requires the appointment of 13-15 public members by LGIC, so an amendment to this section could import language around competency-based appointments.</p> <p>There is language in s. 14(1) of the <i>Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009</i> that might be helpful (“The selection process for the appointment of members to an adjudicative tribunal shall be a competitive, merit-based process and the criteria to be applied in assessing candidates shall include the following: ...”)</p>
<p>5. Implement a hybrid selection model for physician members (some elected members, some competency-based appointments).</p>	<p>Currently 16 physician members of the board are elected by the profession and 3 are appointed. The election process at times causes confusion and promotes a perception that physician board members represent the profession rather than the public interest.</p> <p>A hybrid approach of elected and appointed professional members will help ensure that the board collectively possesses necessary competencies and facilitate ongoing physician engagement in the board selection process.</p>	<p>Medicine Act, s. 6(1) currently requires physician members to be “elected in accordance with the by-laws.” This would need to be amended to permit members to be “selected” in accordance with the by-laws. Supporting by-law changes could then be made to facilitate this change.</p>
<p>6. Provide equal compensation for professional and public members of the board.</p>	<p>Public members of Council are compensated by government at a much lower rate than physician members. The College is prohibited from compensating public members of Council for their work.</p> <p>Compensation for public members is inadequate and unfair. The College should have the ability to compensate all board and committee members directly and equitably.</p>	<p>Code, s. 8 currently requires that Council members appointed by the LGIC be paid, by the Minister, the expenses and remuneration the LGIC determines.</p> <p>An accompanying amendment to the Code, s. 94(1)(h) would also be required. This provision currently allows Council to make by-laws providing for the remuneration of the members of the Council and committees other than persons appointed by the LGIC.</p>
<p>7. Retain the option of appointing an Executive Committee.</p>	<p>Smaller boards may not require an Executive Committee.</p> <p>In the interest of maintaining flexibility, CPSO recommends retaining the option of an Executive Committee, which is largely dependent on board size. A board with 16 members may require an Executive Committee.</p>	<p>Code, s. 10(1) currently requires colleges to have an Executive Committee. Other consequential amendments to the Code may also be required to reflect a discretionary Executive Committee.</p>



Ontario

**Executive Council of Ontario
Order in Council**

On the recommendation of the undersigned, the Lieutenant Governor of Ontario, by and with the advice and concurrence of the Executive Council of Ontario, orders that:

**Conseil exécutif de l'Ontario
Décret**

Sur la recommandation de la personne soussignée, la lieutenant-gouverneure de l'Ontario, sur l'avis et avec le consentement du Conseil exécutif de l'Ontario, décrète ce qui suit:

PURSUANT TO clause 6(1)(b) of the *Medicine Act, 1991*, **Hilary Alexander** of Toronto be appointed as a part-time member of the Council of the College of Physicians and Surgeons of Ontario to serve at the pleasure of the Lieutenant Governor in Council for a period not exceeding one year, effective the date this Order in Council is made.

EN VERTU DE l'alinéa 6 (1) b) de la *Loi de 1991 sur les médecins*, **Hilary Alexander** de Toronto, est nommée au poste de membre à temps partiel du Conseil de l'Ordre des médecins et chirurgiens de l'Ontario pour exercer son mandat à titre amovible à la discrétion du lieutenant-gouverneur en conseil, pour une période maximale d'un an à compter du jour de la prise du présent décret.

Recommended: Minister of Health and Long-Term Care

Recommandé par: la ministre de la Santé et des Soins de longue durée

Concurred: Chair of Cabinet

Appuyé par: Le président/la présidente du Conseil des ministres

**Approved and Ordered:
Approuvé et décrété le:**

DEC 20 2018

**Lieutenant Governor
La lieutenant-gouverneure**

O.C./Décret **1486 / 2018**



Ontario

**Executive Council of Ontario
Order in Council**

On the recommendation of the undersigned, the Lieutenant Governor of Ontario, by and with the advice and concurrence of the Executive Council of Ontario, orders that:

**Conseil exécutif de l'Ontario
Décret**

Sur la recommandation de la personne soussignée, la lieutenant-gouverneure de l'Ontario, sur l'avis et avec le consentement du Conseil exécutif de l'Ontario, décrète ce qui suit:

PURSUANT TO clause 6(1)(b) of the *Medicine Act, 1991*, **Christine Tebbutt** of Mississauga be appointed as a part-time member of the Council of the College of Physicians and Surgeons of Ontario to serve at the pleasure of the Lieutenant Governor in Council for a period not exceeding one year, effective January 1, 2019 or the date this Order in Council is made, whichever is later.

EN VERTU DE l'alinéa 6 (1) b) de la *Loi de 1991 sur les médecins*, **Christine Tebbutt** de Mississauga, est nommée au poste de membre à temps partiel du Conseil de l'Ordre des médecins et chirurgiens de l'Ontario pour exercer son mandat à titre amovible à la discrétion du lieutenant-gouverneur en conseil, pour une période maximale d'un an, à compter du dernier en date du 1er janvier 2019 et jour de la prise du présent décret.

Recommended: Minister of Health and Long-Term Care

Recommandé par: la ministre de la Santé et des Soins de longue durée

Concurred: Chair of Cabinet

Appuyé par: Le président/la présidente du Conseil des ministres

Approved and Ordered:

Approuvé et décrété le:

DEC 12 2018

Lieutenant Governor

La lieutenant-gouverneure

O.C./Décret **1397/2018**

**NOMINATION STATEMENT
CANDIDATE FOR PUBLIC MEMBER, 2019 EXECUTIVE COMMITTEE**



MS. HILARY ALEXANDER

**Public Member of Council
Toronto, Ontario**

Occupation: Retired

**Appointed Council Terms:
2018-2019**

CPSO Committees and Other CPSO Work:

ICR Committee:	2019
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STATEMENT:

Hilary Alexander successfully built two businesses from the ground up in Canada and the United Kingdom through prospecting and negotiating contracts to foster collaborative relationships in a high volume results-oriented environment.

In the 1980s she achieved recognition in Canada and Europe as an accomplished Industrial Food Broker in a male dominated industry.

During her twenty-one year financial services career as an Investment Advisor with BMO Nesbitt Burns, Hilary was promoted with increasing responsibility for the management of a portfolio valued at \$50 million. Her regulatory compliance responsibilities entailed in depth knowledge of industry regulations, bank policies, and government legislation. She provided clients with explanations of complex content in company prospectuses, macro-economic analysis, market trend overviews, as well as analysis of corporate financial reports.

In the 1990s Hilary actively promoted the development of immigrant banking services to new Canadians-- an uphill challenge that was deemed unprofitable at the time.

As an analytical thinker Hilary knows how to find the right approach to obtaining a positive outcome. The value of her work is rooted in her passion for bringing people together with disparate interests for a common objective of serving the organization and community at large.

65
NOMINATION STATEMENT
CANDIDATE FOR PUBLIC MEMBER, 2019 EXECUTIVE COMMITTEE



MS. JOAN FISK

**Public Member of Council
Toronto, Ontario**

Occupation: CEO

**Appointed Council Terms:
2017-2020**

CPSO Committees and Other CPSO Work:

ICR Committee:	2017-2019
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STATEMENT:

My background in business, health care and governance would be of value as we go through governance renewal and strategic planning at the College of Physicians and Surgeons of Ontario. I would be happy to help in any way I can, as the modernisation of the College continues.

66
NOMINATION STATEMENT
CANDIDATE FOR PUBLIC MEMBER, 2019 EXECUTIVE COMMITTEE



MR. PIERRE GIROUX

**Public Member of Council
Toronto, Ontario**

Occupation: Sales and Marketing Executive

**Appointed Council Terms:
2012-2016
2016-2019**

CPSO Committees and Other CPSO Work:

Discipline Committee:	2013-2019
Executive Committee:	2015-2018
Finance and Audit Committee:	2013-2014, 2017-2019, Chair: 2014-2017
Outreach Committee:	2017-2019
Quality Assurance Committee:	2013-2019
Registration Committee:	2018-2019
Physician Compensation Working Group	2017-2019, Chair
Policy Working Group: <i>Prescribing Drugs</i>	2018-2019

STATEMENT:

In a working career spanning over forty years, I held executive and senior management positions in industry, government and banking. Those roles required several domestic and foreign relocations, including lengthy periods in Mexico City, Rome, Paris and London. Throughout these postings, I learned the value of community, flexibility and self-reliance.

Since joining the College in 2012 and currently one of the longest serving public members, I have been a vocal supporter of its mission; to ensure that the regulation and practice of medicine reflect and advance the public interest, along with those who practise medicine. I presently serve on five College Committees, Quality Assurance, Discipline, Finance, Outreach and Registration. I also chair the Physician Compensation Working Group, and I am a participating member of the Prescribing Drugs Policy Working Group.

I previously served on the Executive Committee from 2015 to 2018 which was a great learning experience. I believe I was an engaged participant, not only reflecting the views and interests of the public members of Council, but also ensuring that balance and thoughtfulness were provided on all matters brought before the Executive Committee.

I am asking for your support for my election to the Executive Committee.

67
NOMINATION STATEMENT
CANDIDATE FOR PUBLIC MEMBER, 2019 EXECUTIVE COMMITTEE



MS. ELLEN MARY MILLS

**Public Member of Council
Toronto, Ontario**

**Occupation: Volunteer: Member,
Collingwood Heritage Committee and
Information Host with Sunnybrook Health
Sciences Centre**

**Appointed Council Terms:
2017-2020**

CPSO Committees and Other CPSO Work:

Discipline Committee:	2017-2019
Premises Inspection Committee:	2017-2019

STATEMENT:

Regarding my nomination, I believe I have had relevant experience and possess skills which would allow me to make a contribution to the Executive Committee.

Membership on Council, and on the Discipline and Premises Inspection Committees, has provided me with a good understanding of many of the issues facing the College.

While I am somewhat new, I have demonstrated throughout my career that I am a fast learner as I have moved from one complex area to another, such as mastering pharmacy issues as VP Public and Government Affairs for the Canadian Association of Chain Drug Stores or representing the heavily regulated food manufacturers with the FCPC.

Membership on the Governance Committee of the North Simcoe Muskoka LHIN, provided me the opportunity to participate in the performance review of the Executive Director and the restructuring of the LHIN due to the merger of the CCACs with the LHIN, which I suggest would be helpful.

Further, I believe my skill base, including excellent analytical abilities, sound strategic planning skills, along with passion and creative thinking would be beneficial in the execution of the responsibilities of the Executive Committee.



Council Motion

Motion Title: Fees By-law Amendment – Criminal Record Check Fee and Fairness Commissioner Fee

Date of Meeting: March 1, 2019

It is moved by _____,

and seconded by _____, that:

The Council of the College of Physicians and Surgeons of Ontario proposes to make the following By-law No. 127, after circulation to stakeholders :

By-law No. 127

1. Subsection 1(e) of By-Law No. 2 (the Fees and Remuneration By-Law) is revoked.

Explanatory Note: This proposed by-law needs to be circulated to the profession.
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Council Briefing Note

March 2019

**TOPIC: Criminal Record Check Fee and Fairness Commissioner Fee
FOR DECISION**

ISSUE:

Removing the Criminal Record Check and Fairness Commissioner Fees from the Fees By-laws.

BACKGROUND:

The Fees By-law contemplates charging applicants a fee of \$15 to offset the cost of a criminal record check for registration applications not accompanied by a criminal record check. The College previously obtained criminal record checks for applicants who did not obtain their own, at a cost of \$15. The College discontinued this practice a number of years ago and has required applicants to obtain their own criminal record check for a number of years.

The Fees By-law provides for a fee of \$5 per registration applicant to offset the costs of audits, reports and reviews of registration practices required by provincial legislation. This fee was originally implemented at \$11 in 2009, and was changed to \$5 in 2011 to reflect then anticipated actual recovery costs. When it was instituted, the College anticipated being required to undertake an audit of its fairness and equitable registration practices every three years (as well as reporting and other related activities and obligations to the Ontario Fairness Commissioner). The fee was implemented on each application to recover the College's costs in this regard. Further analysis has determined that this fee is no longer necessary as these costs have been worked into our regular processes and do not create additional costs. Accordingly, the College wishes to cease charging this additional fee on applications.

Neither fee was included in the budget.

The Finance and Audit Committee was in agreement and made the following motion:

It was moved by Dr. Bertoia, seconded by Dr. Copps and CARRIED.

That the Finance & Audit Committee recommends to Council that the Fairness Commissioner Fee and the Criminal Record Check Fee be removed from the Fees By-Law.

DECISION FOR COUNCIL:

1. To remove the \$15 Criminal Record Check Fee from the Fees By-Law.
2. To discontinue charging the \$5 Fairness Commissioner Fee and remove it from the Fees By-Law.

Contact: Leslee Frampton, ext. 311
Douglas Anderson, ext. 607

Date: February 5, 2019

Attachments:

Appendix A: Fees and Remuneration By-Law.

Appendix A

Proposed By-law Amendments

1. Subsection 1(e) of By-law No. 2 (Fees and Remuneration By-Law) is revoked.

APPLICATION FEES

1. A person who submits an application for a certificate of registration or authorization shall pay an application fee. The application fees are as follows:

...

- (e) ~~An additional fee of:~~

- ~~(i) \$5 to offset costs of audits, reports and reviews of registration practices required by provincial legislation will be applied to every application for a certificate of registration; and~~
- ~~(ii) \$15 to offset the cost of a criminal record check will be applied to every application for a certificate of registration that is not accompanied by the results of a criminal record check from an acceptable source.~~

Council Motion

Motion Title: **Tariff rate increase for Discipline Hearings**

Date of Meeting: **March 1, 2019**

It is moved by _____,

and seconded by _____, that:

The Council of the College of Physicians and Surgeons of Ontario amends the Discipline Committee's Tariff Rate for Costs and Expenses for the College to Conduct a Day of Hearing, increasing the Tariff Rate to \$10,370, effective March 1, 2019.

Council Briefing Note

March 2019

TOPIC: Tariff rate increase for Discipline Hearings

FOR DECISION

ISSUE:

Increase to the tariff rate for Discipline Hearings for 2019.

BACKGROUND:

The Health Professions Procedural Code (the “Code”) allows a panel of the Discipline Committee, “in an appropriate case”, to require a member who has committed an act of professional misconduct or who is incompetent to pay all or part of:

1. The College’s *legal* costs and expenses;
2. The College’s costs and expenses incurred in *investigating* the matter; and
3. The College’s costs and expenses incurred in *conducting the hearing*.¹

While the Code allows the Discipline Committee to award costs in the three categories above, in order for the College to obtain costs in the three categories above, College counsel would be required in every case to call or file evidence to prove the actual costs incurred and to make legal argument that the costs incurred were reasonable. At present the College does not have systems in place to provide evidence of the actual costs incurred in categories one and two above (e.g. a docketing system to accurately track investigative time and expenses and legal time and expenses in any particular matter). In addition, proving and arguing costs is itself a time-consuming and litigious process even where a docketing system is in place, essentially resulting in a separate hearing on costs after the hearing on the merits is complete.

The tariff rate represents an exception to the requirement to call or file evidence to prove actual costs incurred and the associated obligation to make argument that those costs are reasonable, with respect to the third category set out in the Code.

More specifically, the Rules of Procedure of the Discipline Committee (the “Rules”) provide that where the College’s request for costs includes “the cost to the College of conducting a day of

¹ Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, s. 53.1.

hearing” (i.e. the 3rd category set out in the Code), no evidence is needed to prove that cost, provided that the request is equal to or less than the amount set out in Tariff A to the Rules.² The amount set out in Tariff A to the Rules is known as the “tariff rate”.

Given that it is possible to request and obtain tariff rate costs without the need to call or file evidence to prove actual costs incurred or to make legal argument that the costs incurred were reasonable, it has historically been the practice of College counsel to request costs at the tariff rate per day of hearing, regardless of whether the hearing is settled in advance or proceeds on a contested basis.

Very rarely, College counsel will obtain instructions from the ICRC to seek costs greater than the tariff rate. In such cases, as indicated above, College counsel is required to call or file evidence to prove the actual costs incurred in all three categories (to the extent possible, given the lack of docketing systems in place) and to make legal argument that the costs incurred were reasonable.

How the tariff rate is calculated

As indicated above, the tariff rate is defined in the Rules to be “the cost to the College of conducting a day of hearing”.

The fixed costs of conducting a day of hearing can vary significantly. The tariff rate has historically been calculated based on the elements of a day of hearing time set out in the chart below. The numbers in this chart reflect the best estimates of fixed costs in 2019.

Table 1

Item³	2019
3 physician Discipline Committee panel members - time ⁴	\$2,916
3 physician Discipline Committee panel members – transportation and maintenance (lodging and food) expenses ⁵	\$1,600
Independent legal counsel - time ⁶	\$3,429.55
CPSO prosecutor - time ⁷	\$2,152.50
Court reporter - time ⁸	\$271.20
Total:	\$10,369.25

² Rules of Procedure of the Discipline Committee of the College of Physicians and Surgeons of Ontario (1 January 2017), Rule 14.04.

³ All estimates include HST where relevant.

⁴ Three physician members * \$162/hour * 6 hours/day. Public members of the Discipline Committee are paid by the Province of Ontario, not by the College.

⁵ Travel and lodging costs vary widely depending on where physician members of the panel reside; this represents an estimated average based on annual charges by physician members of the Discipline Committee.

⁶ This reflects the actual charge by independent legal counsel for a single day of hearing time.

⁷ \$300/hour * 7 hours/day.

⁸ This reflects the actual charge by the court reporter for a single day of hearing time.

The elements included in the tariff rate have not historically included an estimate of the time spent by physician Discipline Committee panel members for travel time, deliberation days or for writing the decision (for which physician panel members are paid), or for expenses incurred by College counsel (e.g. photocopying costs for briefs of evidence, authorities and argument filed with the Committee). Moreover, the elements included in the tariff rate do not include certain variable costs associated with conducting a contested hearing, such as witness expenses (including travel and lodging), expert fees and expenses (including travel and lodging), and the cost of transcripts of the evidence (prepared by the court reporter) for members of the Committee. As such, the estimate reflected in Table 1 represents a conservative estimate of the College's actual costs of conducting a day of hearing, and a fraction of the actual investigative and legal costs and expenses incurred in conducting an investigation and preparing for a hearing.

Increase of the tariff rate over time

In 2018, the Finance Committee recommended and Council endorsed an increase of the tariff rate to reflect 100% of the estimated fixed costs of a day of hearing time. The tariff rate approved for 2018 was \$10,180/day.

As set out below, this was a significant increase over the previous tariff rate and a departure from previous practice where the tariff rate reflected approximately 50% of the estimated fixed costs of a day of hearing time.

The increase to the tariff rate in 2018 was made as part of an overall effort to address rising costs within the College (which are ultimately passed along as increases in membership fees to the College's members) by recovering a greater portion of the College's fixed costs associated with running a Discipline hearing from the member who is the subject of the hearing.

Table 2

2013	\$3,650/day
2014	Increased to \$4,460/day
2015	No increase
2016	Increased to \$5,000/day
2017	Increased to \$5,500/day
2018	Increased to \$10,180/day

An increase to \$10,369.75 (rounded to \$10,370) would be an inflationary increase of 1.85%.

The Finance and Audit Committee reviewed the information above, agreed that a 1.85% increase was reasonable and made the following motion:

It was moved by Dr. Poldre, seconded by Dr. Bertoia and **CARRIED**.

That the Finance Committee recommends to Council that the tariff rate for a day's discipline hearing be increased from \$10,180 to \$10,370 effective in 2019.

DECISION FOR COUNCIL:

1. To increase the tariff rate for a day's discipline hearing from \$10,180 to \$10,370 effective in 2019
-

Contact: Douglas Anderson, ext. 607
Leslee Frampton, ext. 311

Date: February 5, 2019

Council Committee Briefing Note

March 2019

TOPIC: Policy Report FOR INFORMATION

Updates:

1. Cannabis for Medical Purposes: Policy Update
 2. Medical Assistance in Dying: Reports from the Council of Canadian Academies
 3. Policy Consultation Update:
 - I. Continuity of Care
 4. Policy Status Table
-

1. Cannabis for Medical Purposes: Policy Update

- As Council was informed at their last meeting, the College's *Marijuana for Medical Purposes* policy has been updated to more closely align with the new federal *Cannabis Act, 2018*, which legalizes the consumption of recreational cannabis in Canada.
- These updates included:
 - Replacing the term "marijuana" (which is a colloquial or "slang" term) with the term "cannabis"; and
 - Adding a footnote to clarify that the policy does not address the recreational consumption of cannabis.
- While primarily a housekeeping amendment, legal staff advised that updating the title of the policy (from *Marijuana for Medical Purposes* to *Cannabis for Medical Purposes*) required formal approval.

- Consequently, the proposed title change was presented to the Executive Committee at their January, 2019, meeting, where it received approval.
- The newly titled *Cannabis for Medical Purposes* policy is now in effect and posted on the College website.

2. Medical Assistance in Dying: Reports from the Council of Canadian Academies

- In December, 2016, the federal government asked the Council of Canadian Academies (CCA) to undertake an independent review of the following question:
 - *What is the available evidence on, and how does it inform our understanding of medical assistance in dying (MAID) in the case of mature minors, advance requests, and where mental illness is the sole underlying medical condition, given the clinical, legal, cultural, ethical and historical context in Canada?*
- In accepting this charge, the CCA convened an Expert Panel chaired by the Honourable Marie DesChamps (former Justice of the Supreme Court of Canada), and comprised of 43 individuals with expertise and perspectives from Canada and abroad, in the areas of law, medicine, ethics, social science, and health sciences.
- As part of their work, the CCA sought input from groups and organizations affected by, or involved in, MAID across Canada. The College provided its formal response in September, 2017, following review and approval from the Executive Committee.
- In December 2018, the CCA released three [reports](#), one for each of the topics within the central question they were asked to consider. In keeping with their regular practice, the reports do not include recommendations, but are instead intended to inform dialogue and decision-making. A brief overview of each report is provided below.

Topic 1: Requests for MAID by Mature Minors

- Presently, individuals must be at least 18 years of age in order to access MAID. The Expert Panel noted that while age is not determinative of one's capacity to make healthcare decisions, the hesitation to extend MAID to minors reflects a general uncertainty about whether minors are able to fully appreciate the consequences of this decision. The Expert Panel also pointed to a general view that minors require heightened protections and looked to other jurisdictions for examples of safeguards that can be put in place to permit individuals less than 18 years of age to access MAID.

Topic 2: Advance Requests for MAID

- Currently, individuals must be capable both at the time they request MAID and at the time MAID is provided. The Panel recognized that permitting advance requests could relieve anxiety among those who are worried about losing capacity prior to the provision of MAID, but acknowledged that doing so may risk MAID being provided to an individual against their wishes. The Panel did explore potential safeguards that could be in place to mitigate this risk, but ultimately concluded that further research is necessary.

Topic 3: MAID Where Mental Disorder is the Sole Underlying Medical Condition

- Under the current law it is unlikely that individuals would qualify for MAID where their sole underlying medical condition is a mental disorder. The Expert Panel considered the intersection between mental disorder and the capacity to make healthcare decisions and grappled with whether it would be possible to distinguish between suicide and MAID in these instances. The Panel also considered a range of potential safeguards that could potentially mitigate these risks.

3. Policy Consultation Update

I. Continuity of Care

- The general consultation on the *Continuity of Care* draft policies closed on December 9, 2018. The consultation garnered a total of 680 responses: 257 through e-mail or the online discussion page and 423 via the online consultation survey.
- Overall, written feedback indicated support for the concept of continuity of care, although many respondents expressed concerns about how the draft policies aim to achieve this goal. In contrast, the online survey responses were generally more positive, with many of the draft expectations receiving broad support, including from physician respondents.
- Organizational stakeholders were similarly supportive of the spirit and intent of the policies, though many suggested amendments to make the draft policies more feasible within the context of the Ontario healthcare system.
- Additional consultation and engagement activities were also undertaken in order to provide additional opportunities to solicit feedback and engage with stakeholders on this important file. For example:
 - Two *Stakeholder Summits* were held with various stakeholders, including patients, in order to engage in an in-person discussion on key issues in the draft policies;

- Public opinion polling was also conducted to assess the broader public's expectations on key issues that were emerging in the consultation feedback; and
- The *Citizen Advisory Group*¹ was engaged in a high level conversation about key continuity of care issues.
- The Working Group overseeing this project has reviewed all the feedback received, and is revising the policies in light of what was heard.

4. Policy Status Table

- The status of ongoing policy development and reviews, as well as target dates for completion, is presented for Council's information as **Appendix A**. This table will be updated at each Council meeting.
- For further information about the status of any policy issue, please contact Craig Roxborough, Manager, Policy, at extension 339.

DECISIONS/DISCUSSION FOR COUNCIL:

For information only

Contact: Craig Roxborough, Ext. 339

Date: February 8, 2019

Appendices:

Appendix A: Policy Status Table

¹ The Citizen Advisory Group is comprised of patients and caregivers and was created to allow health regulators in Ontario to speak directly to engaged citizens and bring the patient voice into organizational decision-making.

POLICY STATUS REPORT – MARCH 2019 COUNCIL

POLICY REVIEWS

POLICY	SUMMARY	STATUS/NEXT STEPS	PROJECTED COMPLETION
Complementary/ Alternative Medicine	This policy articulates expectations relating to complementary and alternative medicine.	Initial stages of the review are underway and a preliminary consultation on the current policy will be undertaken following the March, 2019, meeting of Council.	2020
Prescribing Drugs	This policy sets out the College's expectations of physicians who prescribe drugs or provide drug samples to patients.	A Working Group has been struck to undertake this review and a preliminary consultation on the current policy has been undertaken. Revisions to the current policy are being made based on the feedback received and research undertaken. A draft policy will be brought to a future Council meeting.	2019
Maintaining Appropriate Boundaries and Preventing Sexual Abuse	This policy helps physicians understand and comply with the legislative provisions of the <i>Regulated Health Professions Act, 1991 (RHPA)</i> regarding sexual abuse. It sets out the College's expectations of a physician's behaviour within the physician-patient relationship, after the physician-patient relationship ends, and with	A Working Group has been struck to undertake this review and a preliminary consultation on the current policy has been undertaken. Revisions to the current policy are being made based on the feedback received and research undertaken. A draft policy will be brought to a future Council meeting.	2019

POLICY STATUS REPORT – MARCH 2019 COUNCIL

POLICY	SUMMARY	STATUS/NEXT STEPS	PROJECTED COMPLETION
	respect to persons closely associated with patients.		
Practice Management Considerations for Physicians Who Cease to Practise, Take an Extended Leave of Absence or Close Their Practice Due to Relocation	This policy explains the practice management measures physicians should take when they cease to practise or will not be practising for an extended period of time.	A newly titled <i>Closing a Medical Practice</i> draft policy was approved for external consultation by Council in February 2018. The draft policy is now being revised in light of the feedback received through that consultation. The timeline for this review has been adjusted to align with the development of the new <i>Continuity of Care</i> draft policies given points of intersection with that work.	2019
Management of Test Results	The current policy articulates a physician's responsibility to: 1. Have a system in place to ensure that test results are managed effectively in all of their work environments, and 2. Follow-up appropriately on test results.	A joint Working Group has been struck to undertake this review alongside the development of new <i>Continuity of Care</i> policies. Following Council approval in May 2018, the draft <i>Managing Tests</i> policy was released for external consultation. The Working Group has reviewed the feedback received, and is revising the draft policy.	2019
Continuity of Care	The College does not currently have a policy on <i>Continuity of Care</i> .	A joint Working Group has been struck to oversee the development of new <i>Continuity of Care</i> policies alongside the review of the current <i>Test Results Management</i> policy. In May 2018, Council approved a set of draft	2019

POLICY STATUS REPORT – MARCH 2019 COUNCIL

POLICY	SUMMARY	STATUS/NEXT STEPS	PROJECTED COMPLETION
		<p><i>Continuity of Care</i> policies for external consultation which continued until December 9, 2018. The Working Group has reviewed the feedback received, and is revising the draft policies.</p>	
<p>Confidentiality of Personal Health Information</p>	<p>This policy sets out physicians' legal and ethical obligations to protect the privacy and confidentiality of patients' personal health information.</p>	<p>A Working Group has been struck to undertake this review and a preliminary consultation on the current policy has been undertaken. Revisions to the current policy are being made based on the feedback received and research undertaken. A draft policy will be brought to a future Council meeting.</p>	<p>2020</p>
<p>Medical Records</p>	<p>This policy sets out the essentials of maintaining medical records.</p>	<p>A Working Group has been struck to undertake this review and a preliminary consultation on the current policy has been undertaken. Revisions to the current policy are being made based on the feedback received and research undertaken. A draft policy will be brought to a future Council meeting.</p>	<p>2020</p>
<p>Delegation of Controlled Acts</p>	<p>This policy sets expectations for physicians about when and how they may delegate controlled acts, through either direct orders or medical directives.</p>	<p>Initial stages of the review are underway and a preliminary consultation on the current policy will be undertaken following the March, 2019, meeting of Council.</p>	<p>2021</p>

POLICY STATUS REPORT – MARCH 2019 COUNCIL

POLICY	SUMMARY	STATUS/NEXT STEPS	PROJECTED COMPLETION
Disclosure of Harm	This policy sets out the expectations of physicians in situations where patients experience harm in the course of medical treatment.	A preliminary consultation was held between September and November 2018. Revisions are being made based on the feedback received and a draft policy will be brought to a future Council meeting.	2019

POLICY STATUS REPORT – MARCH 2019 COUNCIL

POLICIES SCHEDULED TO BE REVIEWED

POLICY	TARGET FOR REVIEW	SUMMARY
Female Genital Cutting (Mutilation)	2016/17	This policy sets out physicians' obligations with respect to female genital cutting/mutilation. The review of this policy has been deferred, due to competing priorities.
Dispensing Drugs	2016/17	This policy sets out the College's expectations of physicians who dispense drugs.
Professional Responsibilities in Postgraduate Medical Education	2016/17	This policy sets out the roles and responsibilities of most responsible physicians, supervisors, and trainees engaged in postgraduate medical education programs.
Third Party Reports	2017/18	This policy clarifies the College's expectations regarding physicians' roles in and standards of care for conducting medical examinations and/or preparing reports for third parties.
Mandatory and Permissive Reporting	2017/18	This policy sets out the circumstances under which physicians are required by law, or expected by the College, to report information about patients.
Criminal Record Screening	2017/18	This policy sets out circumstances in which applicants for certificates of registration and existing physicians are required to submit to a criminal record screen.
Professional Responsibilities in Undergraduate Medical Education	2017/18	This policy sets out the roles and responsibilities of most responsible physicians and supervisors of medical students engaged in undergraduate medical programs.
Medical Expert: Reports and Testimony	2017/18	This policy sets out the College's expectations of physicians who act as medical experts.
Social Media – Appropriate Use by Physicians (Statement)	2018/19	This document provides guidance to physicians about how to engage in social media while continuing to meet relevant legal and professional obligations.

POLICY STATUS REPORT – MARCH 2019 COUNCIL

POLICY	TARGET FOR REVIEW	SUMMARY
Providing Physician Services During Job Actions (formerly Withdrawal of Physician Services During Job Actions)	2018/19	This policy sets out the College's expectations of physicians during job actions. Council approved the Providing Physician Services During Job Actions policy at its March 2014 meeting. The policy was posted on the College's website, and published in <i>Dialogue</i> , Volume 10, Issue 1, 2014.
Physicians' Relationships with Industry: Practice, Education and Research (formerly Conflict of Interest: Recruitment of Subjects for Research Studies and MDs Relations with Drug Companies)	2019/20	The draft policy sets out the College's expectations for physicians who interact with industry in a number of key areas. Council approved the Physicians' Relationships with Industry: Practice, Education and Research policy at its September 2014 Meeting. The policy was posted on the College's website, and published in <i>Dialogue</i> , Volume 10, Issue 3, 2014.
Telemedicine	2019/20	The policy sets expectations for physicians using telecommunications technologies to interact with patients in different locations, in actual or stored time.
Marijuana for Medical Purposes	2020/21	The policy sets expectations for physicians relating to the prescribing of dried marijuana for medical purposes.
Professional Obligations and Human Rights	2020/21	The policy articulates physicians' existing legal obligations under the Ontario <i>Human Rights Code</i> , and the College's expectation that physicians will respect the fundamental rights of those who seek their medical services.
Consent to Treatment	2020/21	The policy sets out expectations of physicians regarding consent to treatment.
Planning for and Providing Quality End-of-Life Care (formerly Decision-Making for the End of Life)	2020/21	This policy sets out expectations of physicians regarding planning for and providing quality care at the end of life.

POLICY STATUS REPORT – MARCH 2019 COUNCIL

POLICY	TARGET FOR REVIEW	SUMMARY
Blood Borne Viruses	2020/21	This policy sets expectations with respect to reducing the risk of acquiring or transmitting a blood borne virus, as well as expectations for physicians if they are exposed to a blood borne virus, and lastly, if they are infected with a blood borne virus.
Physician Treatment of Self, Family Members, or Others Close to Them (formerly Treating Self and Family Members)	2021/22	This policy sets out the circumstances in which it may be acceptable for physicians to provide treatment for themselves, family members, or others close to them.
Physician Behaviour in the Professional Environment	2021/22	This policy provides specific guidance about the profession's expectations of physician behaviour in the professional environment.
Medical Assistance in Dying	2021/22	This policy articulates the legal obligations and professional expectations for physicians with respect to medical assistance in dying, as set out in the federal legislation, provincial legislation, and relevant College policies.
Accepting New Patients	2022/23	This policy sets out the College's expectations of physicians when accepting new patients.
Ending the Physician-Patient Relationship	2022/23	This policy sets out the College's expectations of physicians when ending the physician-patient relationship.

POLICY STATUS REPORT – MARCH 2019 COUNCIL

POLICY	TARGET FOR REVIEW	SUMMARY
Uninsured Services: Billing and Block Fees	2022/23	This policy articulates the College's expectations of physicians in relation to billing for uninsured services, including offering patients the option of paying for uninsured services by way of a block fee.
Ensuring Competence: Changing Scope of Practice and Re-entering Practice	2023/2024	This policy sets out the College's expectations related to reporting and demonstrating competence prior to changing scope of practice and/or re-entering practice. It also outlines the College review process for ensuring competence when physicians change their scope of practice and/or re-enter practice.
Public Health Emergencies	2023/2024	This policy sets out the College's expectations of physicians during public health emergencies, and affirms the commitment of the profession to responding to public health emergencies by providing physician services.

Council Briefing Note

March 2019

TOPIC: GOVERNMENT RELATIONS REPORT

FOR INFORMATION

Items:

1. Ontario's Political Environment
2. Issues of Interest
3. Interactions with Government

1. ONTARIO'S POLITICAL ENVIRONMENT:

- The House rose for the winter break on December 20, 2018 and is scheduled to return on February 19, 2019.
- The pre-holiday period was eventful on the physician compensation file, when the government announced that it would withdraw from arbitration proceedings with the OMA. The government ultimately agreed to continue with the process.
- In accordance with the direction outlined in the EY Canada report, *Managing Transformation*, the government continues to champion efficiency in government spending and cost-reduction initiatives.
- The work of finding efficiencies while improving service delivery in health care is the focus of the Premier's Council on Improving Healthcare and Ending Hallway Medicine, chaired by Dr. Rueben Devlin. The Council released its [first report](#) on January 31, 2019 and identified three key findings:
 - Patients' health and the well-being of families/caregivers are negatively impacted by difficulty navigating the health care system and long wait times.
 - The system is already facing capacity pressures and does not have the appropriate mix of services, beds, or digital tools to be ready for the expected increase in complex care needs.
 - More effective coordination at the system level and at the point-of-care would make the system more efficient and achieve better value for taxpayer money.

- The Council’s recommendations will be released in the spring and are expected to explore opportunities for improvement in digital health care, integrated health care delivery, and finding system efficiencies.
- Also on January 31, 2019, [draft health legislation](#), the *Health System Efficiency Act*, was leaked. The legislation contemplates reorganizing the delivery of health care services through the creation of a new “Super Agency.”
 - The draft legislation would empower the government to bring a number of organizations – including the LHINs, Cancer Care Ontario, Trillium Gift of Life Network, and eHealth – under the oversight of the new Super Agency.
 - The legislation also contemplates the reorganization of services delivered through hospitals, family health teams, and long-term care facilities, among others.
 - The Deputy Premier and Minister of Health and Long-Term Care has indicated the government’s plan for health care transformation will be released within weeks.
 - The health sector will be watching closely for the introduction of legislation when the Legislature resumes on February 19.

2. ISSUES OF INTEREST:

Public Appointments Update

- There is currently one vacant public member position on Council. The College has been actively pressing government to fill this position early in the year.
- As of the end of December, the government had reappointed both Peter Pielsticker and Joan Powell, and appointed two new members to Council.

Red Tape Reduction and Proposed Legislative Change

- This government’s focus on reducing red tape through effective decision-making and process efficiencies has been made clear in the first months of its mandate.
- This emphasis, both within the Ministry of Health and Long-Term Care and across government generally, presents an opportunity for the College to advance desired changes to the *RHPA*.
- The College is preparing a red tape submission to government outlining recommended changes to the *RHPA* that would increase efficiency in organizational processes and decision-making.

Governance Review

- A submission with the College's governance modernization recommendations involving legislative change has been sent to the Minister of Health and Long-Term Care (attached as **Appendix A**).
- These recommendations also fit well within the red tape reduction narrative and will be included as a part of that submission as it moves forward.

3. INTERACTIONS WITH GOVERNMENT:

- The College's government relations activities have strongly focused on (re)establishing relationships with the new government and the opposition parties.
- Public appointment related issues continue to be an area of focus in discussion with government. In particular, we have facilitated meetings with key staff in the Minister's office and Premier's Office, the Minister of Health, Parliamentary Assistants, opposition party critics, and other elected officials including new MPPs. We will continue to facilitate these meetings as we continue building out our MPP contact program in 2019, and we anticipate regular contact between the College and MPPs/staff as we maintain our relationships with the government and staff.

Contact: Louise Verity, Ext. 466
Heather Webb, Ext. 557

Date: February 8, 2019

Attachment:

Appendix A: Letter to Minister Elliott re: Governance Recommendations, January 25, 2019



January 25, 2019

The Honourable Christine Elliott, MPP
 Deputy Premier and Minister of Health and Long-Term Care
 10th Floor, Hepburn Block
 80 Grosvenor Street Toronto,
 Ontario M7A 2C4

Dear Minister,

RE: Governance reform recommendations

Thank you for taking the time to meet with us to discuss the important shared issues between the government and the College of Physicians and Surgeons of Ontario (CPSO). We were encouraged by our discussion with you and your general support of our work to modernize and improve the College's governance structure.

We write to provide you with our recommendations for a more efficient and effective governance structure that we believe will strengthen public confidence in the regulatory system. Our work has been informed by available evidence and the recommendations from the College of Nurses of Ontario.

Recommendations to modernize CPSO's governance structure include the following:

1. Increase public member representation so there are equal numbers of physician and public members on the board;
2. Reduce the size of the board from 34 to between 12-16 members;
3. Eliminate overlap between board and statutory committee membership;
4. Implement a competency-based board selection process;
5. Implement a hybrid selection model for physician members;
6. Provide equal compensation for physician and public members of the board;
7. Retain the option of appointing an Executive Committee.

The accompanying attachment provides the detailed rationale and the legislative change(s) required to achieve each recommendation. We look forward to working together to modernize the CPSO board to better serve the people of Ontario.

Yours truly,

Peeter Poldre, MD, EdD, FRCPC
 President

Nancy Whitmore, MD, FRCSC, MBA
 Registrar and Chief Executive Officer

Encl. CPSO Governance Review: Recommendations, Rationale and Required Legislative Changes

cc. Helen Angus, Deputy Minister of Health and Long-Term Care
 Heather Watt, Chief of Staff, Minister of Health and Long-Term Care
 Patrick Dicerni, Assistant Deputy Minister, Strategic Policy and Planning Division

CPSO Governance Review: Recommendations, Rationale, and Required Legislative Changes

Recommendation	Rationale	Required Legislative Changes ¹
<p>1. Increase public member representation so there are equal numbers of physician and public members on the board.</p>	<p>Public members occupy less than half or 44% of board positions (when gov't appoints the full complement of 15 members). Equal public/professional board membership is increasingly accepted as a best practice internationally.</p> <p>This change will ensure a balance between public and physician expertise and competencies in regulation and help strengthen public confidence in the regulatory system.</p>	<p>Medicine Act, s. 6(1), which currently requires 15-16 professional members and 13-15 public members, plus 3 academic representatives.</p>
<p>2. Reduce the size of the board from 34 to between 12-16 members.</p>	<p>A 34 member board is too large. Literature supports smaller boards as being more effective and efficient in decision making. The range is intended to provide flexibility to achieve the right combination of competencies.</p>	<p>Medicine Act, s. 6(1), which currently requires 15-16 professional members and 13-15 public members, plus 3 academic representatives.</p>
<p>3. Eliminate overlap between board and statutory committee membership.</p>	<p>Existing quorum requirements require board member participation on some statutory committees. These requirements are particularly onerous for public board members who must provide between 100 and 120 days of work as board and committee members each year.</p> <p>Separation between the board and statutory committees is considered a best practice. Board and statutory committees have very different roles (oversight/strategic for the board vs. adjudicative for statutory committees).</p> <p>Separation in membership from the board will enhance the integrity and independence of the board and statutory committees, and help strengthen public confidence in the regulatory system.</p>	<p>Section 10(3) of the Code currently requires the composition of committees to be set by by-law, although a number of sections in the Code set composition and quorum requirements for the following statutory committee panels:</p> <ul style="list-style-type: none"> - s. 17(2): Registration Committee panels - s. 25(2) and (3): ICRC panels - s. 38(2-5): Discipline Committee panels - s. 64(2-3): Fitness to Practice Committee panels <p>Once Bill 87 amendments to the RHPA and the Code are proclaimed, composition and quorum requirements for these committees will be set by regulation.</p> <p>New regulations therefore need to be developed pursuant to the RHPA, s. 43(1)(p) to (s) and the Code, s. 94(1)(h.1)-(h.4).</p>
<p>4. Implement a competency-based board selection process.</p>	<p>Competency-based board selection for physician and public members support the right mix of knowledge, skills and experience amongst board members to ensure the board is able to effectively discharge its functions.</p> <p>A competency based selection process is considered a best</p>	<p>For professional members: the Medicine Act, s. 6(1) currently requires members to be “elected in accordance with the by-laws.” This would need to be amended to permit members to be “selected” in accordance with the by-laws. Supporting by-law changes could then be made to facilitate this change.</p>

¹ NB: This list is not comprehensive – other incidental changes may also be required.

Recommendation	Rationale	Required Legislative Changes ¹
	practice.	<p>Other consequential legislative changes may also be required (for example, s. 5 of the Code which provides for the term of elected Council members).</p> <p>For public members: there are different options available to accomplish this change. Medicine Act, s. 6(1) requires the appointment of 13-15 public members by LGIC, so an amendment to this section could import language around competency-based appointments.</p> <p>There is language in s. 14(1) of the <i>Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009</i> that might be helpful (“The selection process for the appointment of members to an adjudicative tribunal shall be a competitive, merit-based process and the criteria to be applied in assessing candidates shall include the following: ...”)</p>
<p>5. Implement a hybrid selection model for physician members (some elected members, some competency-based appointments).</p>	<p>Currently 16 physician members of the board are elected by the profession and 3 are appointed. The election process at times causes confusion and promotes a perception that physician board members represent the profession rather than the public interest.</p> <p>A hybrid approach of elected and appointed professional members will help ensure that the board collectively possesses necessary competencies and facilitate ongoing physician engagement in the board selection process.</p>	<p>Medicine Act, s. 6(1) currently requires physician members to be “elected in accordance with the by-laws.” This would need to be amended to permit members to be “selected” in accordance with the by-laws. Supporting by-law changes could then be made to facilitate this change.</p>
<p>6. Provide equal compensation for professional and public members of the board.</p>	<p>Public members of Council are compensated by government at a much lower rate than physician members. The College is prohibited from compensating public members of Council for their work.</p> <p>Compensation for public members is inadequate and unfair. The College should have the ability to compensate all board and committee members directly and equitably.</p>	<p>Code, s. 8 currently requires that Council members appointed by the LGIC be paid, by the Minister, the expenses and remuneration the LGIC determines.</p> <p>An accompanying amendment to the Code, s. 94(1)(h) would also be required. This provision currently allows Council to make by-laws providing for the remuneration of the members of the Council and committees other than persons appointed by the LGIC.</p>
<p>7. Retain the option of appointing an Executive Committee.</p>	<p>Smaller boards may not require an Executive Committee.</p> <p>In the interest of maintaining flexibility, CPSO recommends retaining the option of an Executive Committee, which is largely dependent on board size. A board with 16 members may require an Executive Committee.</p>	<p>Code, s. 10(1) currently requires colleges to have an Executive Committee. Other consequential amendments to the Code may also be required to reflect a discretionary Executive Committee.</p>

Discipline Committee Report of Completed Cases – March 2019 Council

This report covers discipline cases completed (i.e., the written decision and reasons on finding and, if applicable, penalty have been released) between November 17, 2018 and February 8, 2019. The decisions are organized according to category, and then listed alphabetically by physician last name.

Sexual Abuse – 5 cases	2
1. Dr. R. Feigel	2
2. Dr. M.S. Izzeldin	5
3. Dr. S. Kayilasanathan	12
4. Dr. P.A. Mitchell	14
5. Dr. P. Picard	19
Incompetence – 3 cases	31
1. Dr. A.W. Jackiewicz	31
2. Dr. J.D. Marcin.....	40
3. Dr. J.S.B. Martin	45
Failed to Maintain the Standard of Practice of the Profession – 3 cases	49
1. Dr. A.M. Alexander	49
2. Dr. A.S. Gordon	55
3. Dr. M.E. Mrozek.....	58
Disgraceful, Dishonourable or Unprofessional Conduct – 5 cases	64
1. Dr. F.E. Allendes	64
2. Dr. D.H.D. Jones	67
3. Dr. C. Khuon.....	69
4. Dr. C.C. Lee.....	71
5. Dr. W.A. Roy.....	73
Application for Reinstatement – 1 case	76
1. Dr. B.E. Williams.....	76

Sexual Abuse – 5 cases

1. Dr. R. Feigel

Name: Dr. Roman Feigel
 Practice: Obstetrics and Gynaecology
 Practice Location: Ottawa
 Hearing: Allegations - Contested
 Penalty - Joint Submission
 Finding/ Written Decision Date: June 11, 2018
 Penalty Decision Date: December 7, 2018
 Penalty Written Decision Date: January 17, 2019

Allegations and Findings

- sexual abuse of patients - **proven**
- disgraceful, dishonourable or unprofessional conduct - **proven**

Dr. Feigel is an obstetrician and gynecologist who started practising in 1980.

Patient A

Patient A is a woman in her 50s who had been a patient of Dr. Feigel for over 20 years.

Based on the evidence and its assessment of credibility, the Discipline Committee found that when Patient A was getting ready to leave an appointment with Dr. Feigel in January 2014, at which there was no physical examination, Dr. Feigel told her that she was “sexy” while holding her hand and asked her if she was “entertaining herself” while he made an up and down motion with his hand near his hip, which indicated masturbation. The Committee found that Dr. Feigel’s remarks and accompanying gesture were remarks and behaviour of a sexual nature and constituted sexual abuse of a patient. Further, the Committee found this behaviour constituted disgraceful, dishonourable or unprofessional conduct.

The Committee found that on appointments in the two years preceding Patient A’s last appointment in January 2014, Dr. Feigel made comments to Patient A that she was “sexy” and that she had a “nice tummy or belly.” According to the clinic notes, Patient A had physical examinations at some of those appointments, but not at other appointments, during this time period. Patient A testified that when she was on the examining table during a physical examination, Dr. Feigel told her she had a “nice tummy” or “one or two comments like that.” Patient A testified that Dr. Feigel said she was sexy “a few times” on appointments prior to the January 2014 appointment. It was not clear from her evidence whether or not the “sexy” comments were made during or in the context of a physical examination, or that the “sexy” and “nice tummy” comments

were ever made during the same appointment. The Committee found that Dr. Feigel made the comments alleged on one or more of the prior appointments.

The Committee stated that a comment that a patient is “sexy” is by definition a remark of a sexual nature, regardless of whether or not it is made during or in the context of a physical examination. Consequently, the Committee found that Dr. Feigel engaged in sexual abuse of Patient A by making a remark of a sexual nature at appointments prior to the January 2014 appointment. Further, the Committee found this constitutes disgraceful, dishonourable or unprofessional conduct.

With respect to the comment “nice tummy or nice belly,” the fact that the comment was made during a physical examination was concerning, but without further details, the Committee was not prepared to conclude that an objective observer would find this to be a comment of a sexual nature. However, the Committee found that commenting that Patient A had a nice tummy or belly during a physical examination constituted disgraceful, dishonourable or unprofessional conduct. The Committee accepted Patient A’s testimony that Dr. Feigel made such comments during this time period. The Committee considered whether Dr. Feigel’s comments were ill-advised attempts to make Patient A feel good or comfortable about her appearance. Even if this was the case, which was not clear, such remarks are not appropriate during clinical encounters. The Committee found that the comments “nice tummy or belly” were comments made by Dr. Feigel about Patient A’s physical attractiveness during, and with no clinical relationship to, a physical examination. The Committee found that such comments to Patient A during a physical examination at medical appointments were inappropriate and unprofessional.

Patient B

Patient B is a woman in her 50s who was referred to Dr. Feigel by her family physician because of possible polyps and for an endometrial biopsy.

Based on the evidence and its assessment of credibility, the Committee found that during Patient B’s appointment in February 2014 at which he conducted breast, abdominal and pelvic examinations:

- Dr. Feigel told her that she was beautiful and gorgeous prior to the breast examination. The Committee found that these were remarks of a sexual nature when viewed in the context of the appointment as a whole, including that they were made while Patient B was undressed and covered only by a paper sheet awaiting physical examination and just prior to intimate breast, abdominal and pelvic examinations during which other sexual remarks were made.
- Dr. Feigel remarked during a breast examination for which he pulled down the paper sheet exposing both her breasts, that she had beautiful breasts and asked if she had sensitive nipples and if she liked it when her husband sucked on them. The Committee found that these were remarks of a sexual nature as they were made

- about a part of her body connected to her sexuality and while her breasts were exposed and the questions to her were overtly sexual in nature;
- Dr. Feigel pulled the paper sheet down further to examine her abdomen and remarked “your navel ring is so sexy” while her abdomen and breasts were exposed and he had one hand on her abdomen and the other hand near her pubic area. The Committee found that the remarks were of a sexual nature, given the nature of the statement “so sexy” made while he was looking at her abdomen, combined with the location of his hands; and
 - Dr. Feigel remarked that she had a lovely vagina, that it had a sweet smell and that it had plenty of natural lubrication just as he thought, while performing a pelvic examination. The Committee noted that these remarks were made concerning the portion of a female’s anatomy most connected to her sexuality and were made during an internal examination, while Patient B’s pubic area was completely exposed to Dr. Feigel.

The Committee did not make any finding that the touching of Patient B’s abdomen, breasts or vagina was inappropriate or not required for a clinical purpose. Rather, the fact that Dr. Feigel was looking at or touching her breasts in the first case, touching her abdomen and his other hand was near her pubic area in the second, and that he was performing a speculum examination in the third case, provide important context, which reinforced the finding that the remarks were of a sexual nature.

The Committee found that Dr. Feigel engaged in sexual abuse of Patient B, by remarks of a sexual nature prior to and during the course of intimate physical examinations at a medical appointment. Further, the Committee found that this constitutes disgraceful, dishonourable and unprofessional conduct.

Undertaking

On November 22, 2018, Dr. Feigel signed an undertaking resigning from the College effective January 1, 2019 and also undertook not to apply or re-apply for registration as a physician to practise medicine in Ontario or any other jurisdiction after the effective date.

Disposition

On December 17, 2018, the Discipline Committee ordered that:

- Dr. Feigel reimburse the College for funding provided to patients under the program required under section 85.7 of the Code, by posting an irrevocable letter of credit or other security acceptable to the College, within thirty(30) days of this Order in the amount of \$32,120.00.
- Dr. Feigel to appear before the panel to be reprimanded.
- Dr. Feigel pay to the College its costs of this proceeding in the amount of \$33,500.00 within thirty (30) days from the date of this Order.

2. Dr. M.S. Izzeldin

Name: Dr. Mohamed Salih Izzeldin
Practice: Family Medicine
Practice Location: London
Hearing: Allegations - Uncontested
Penalty - Joint Submission
Finding/ Penalty Decision Date: October 29, 2018
Written Decision Date: December 3, 2018

Allegations and Findings

- sexual abuse of patients (Patients A, K and O) - **proven**
- disgraceful, dishonourable or unprofessional conduct - **proven**

A. Background

Dr. Izzeldin received his certificate of registration authorizing independent practice on August 10, 2005. He obtained certification from the College of Family Physicians of Canada on December 8, 2004. At the material time, Dr. Izzeldin practiced family medicine at a Clinic in London, Ontario (the "Clinic").

B. Sexual Abuse and/or Disgraceful, Dishonourable and Unprofessional Conduct

1. (i) Patient A

In 2005, Patient A began working at the Clinic. She was in her twenties at the time.

In addition to working with Dr. Izzeldin, Patient A was also his patient. Dr. Izzeldin treated Patient A for several illnesses, including colds, ear infections, and abdominal pain. He provided ongoing medical services for Patient A on multiple occasions, including issuing numerous prescriptions (including for controlled substances) over a four year period.

Commencing in 2006, Patient A began working at an after-hours walk in clinic with Dr. Izzeldin. In the evenings, they were often alone in the Clinic. No other staff members were present. At around this time, Dr. Izzeldin began making unwanted sexual advances to Patient A, and engaged in touching of a sexual nature of her breasts and buttocks, as set out below.

In the evening, during an after-hour clinic, Dr. Izzeldin approached Patient A while she was cleaning an examination room. He closed the door, approached her from behind, and embraced her in a hug. Without saying anything, Dr. Izzeldin inserted one of his hands underneath her shirt, underneath her bra, and groped her breast. Dr. Izzeldin kept his other arm wrapped around her in the hug. He nuzzled her ear with his nose.

Patient A did not say anything. She pushed herself out of his embrace, walked out of the room and continued to do her work.

Dr. Izzeldin engaged her in unwanted hugs from behind and groped her breasts on four or five occasions between 2006 and 2011.

On other occasions, while Patient A was sitting at the nursing station, Dr. Izzeldin took her hand and pulled her into an examination room. He shut the door behind her. He engaged her in long hugs from the front, and while doing so placed his hand on her bottom and rubbed her buttocks. Patient A froze on these occasions, unsure of what to do. She did not tell anyone what occurred. She was very embarrassed and continued to do her work.

Dr. Izzeldin also made inappropriate comments to Patient A. He asked her when she lost her virginity. Twice, while she was chaperoning female patients' physicals, he asked (in front of the patient) inappropriate questions including when she had had her last physical or Pap test. He asked her whether it hurt to have a Pap done.

In 2011, Patient A stopped working at the evening after-hours clinic so she wouldn't be alone with Dr. Izzeldin. She continued to work at the day clinic. In 2012, she went on leave. When she returned, she was assigned to a different clinic and did not work with Dr. Izzeldin again.

Dr. Izzeldin's conduct described above constitutes sexual abuse of a patient and is disgraceful, dishonourable and unprofessional.

2. (ii) Ms. B

Ms. B started working at the Clinic. It was her first ever "career job". Her work area was isolated from the rest of the Clinic, and she generally worked entirely alone.

Shortly after Ms. B started working at the Clinic, in or around October 2011, Dr. Izzeldin began hugging her. She thought it was unusual. He would frequently come to her office and ask her for hugs.

By around Christmas of 2011, Dr. Izzeldin's conduct escalated to more frequent hugs of a sexual nature, as well as unwanted touching of a sexual nature, as set out below.

In around Christmas of 2011, Dr. Izzeldin began rubbing his leg against her in a sexual manner, while hugging her.

On many occasions, while embracing her in a hug, Dr. Izzeldin's moved his hands down her back to her buttocks. On other occasions, Dr. Izzeldin moved his hands up her sides and touched the sides of her breasts. Ms. B pushed his hands away and moved away from him.

On many occasions, while she was sitting at her desk, Dr. Izzeldin leaned forward to hug her. On these occasions, he attempted to insert his hand down her shirt to touch her breasts. On some occasions he was successful, but on other occasions, Ms. B managed to block his hand with her hand, turn away and say "no".

Dr. Izzeldin also attempted to kiss her on multiple occasions. He placed his lips near her cheek and then moved his face quickly so his lips were on her lips, with an open mouth. Ms. B pulled away.

Dr. Izzeldin repeatedly asked Ms. B to go out after work with her, to “party” or go for dinner. Ms. B repeatedly turned him down, but he persisted. She told him his conduct was inappropriate. She felt violated and uncomfortable.

Dr. Izzeldin also gave Ms. B gifts, including cash. Another time, after she had turned down his invitations several times, he offered to pay for Ms. B and her fiancé to go out for dinner.

She was initially anxious about complaining because it was her first career job, and she didn't want anyone to think badly of her. She was new to the city, didn't know many people, and didn't want to make a bad name for herself.

Dr. Izzeldin's conduct described above is disgraceful, dishonourable and unprofessional.

3. (iii) Ms. C

In 2013, Ms. C undertook a work placement at the Clinic. Later, she worked at the Clinic as a temporary worker. She was in her twenties at the time.

While at the Clinic, Ms. C was trained by Ms. B. She worked exclusively with Ms. B. However, after her work placement was completed, she worked alone in the work area.

Ms. C had minimal interaction with the doctors while working at the Clinic. The exception was Dr. Izzeldin, who touched her inappropriately and engaged her in unwanted hugs.

While working, Dr. Izzeldin came to Ms. C to have blood drawn. At the end of the encounter, he hugged Ms. C. He said to her, “hug me hard” or “hug me harder”. On at least two occasions, he hugged her tightly, and then moved his hand to her lower back/upper buttocks.

The hugging took place in her work area, which was far away from other parts of the Clinic. She was alone in this area of the Clinic when Dr. Izzeldin approached her to talk and to hug her.

Ms. C found these hugs awkward and was uncomfortable with Dr. Izzeldin's conduct. Dr. Izzeldin's conduct described above is disgraceful, dishonourable and unprofessional.

4. (iv) Patient I

Patient I was a patient of Dr. Izzeldin for nine years, at the Clinic. He was her family doctor, as well as the doctor for her then husband and children.

For her first five years as Dr. Izzeldin's patient, Patient I's visits with Dr. Izzeldin were infrequent. After she separated from her husband, her appointments were more frequent, as she was experiencing medical problems.

Dr. Izzeldin always shook hands and hugged her at appointments. The hugs typically lasted for two seconds. He would extend his hand to hers to shake it and then pull her into a hug.

After or around the time she separated from her husband, Dr. Izzeldin began to put his hand on her knee and on her arm while talking to her. Dr. Izzeldin knew that they were no longer together.

Around January 2014, she went to an appointment, and as usual Dr. Izzeldin shook her hand and pulled her up into a hug. This time, he hugged her tightly and did not let go until she pulled herself free. She felt trapped and panicked and did not know what to do. The hug lasted for approximately 15 seconds.

Dr. Izzeldin's conduct described above is disgraceful, dishonourable and unprofessional.

5. (v) Patient K

Patient K became a patient of Dr. Izzeldin's shortly after she arrived in Canada. She was 15 years old when she was first treated by Dr. Izzeldin in 2005.

In May 2006, Patient K reported to Dr. Izzeldin that she had stopped menstruating. She had not gotten her period for nine months. She reported anxiety and depression. Dr. Izzeldin ordered a urine analysis. Dr. Izzeldin offered to prescribe birth control pill. She declined the prescription at that time.

Patient K continued to see Dr. Izzeldin in follow up for her amenorrhea and depression. As set out below, Dr. Izzeldin sexually abused Patient K on two occasions.

In July 2006, in a follow-up appointment with Dr. Izzeldin, Dr. Izzeldin embraced Patient K tightly in a close, body-to-body hug. This made Patient K extremely uncomfortable.

Dr. Izzeldin then made Patient K sit on his lap. He brought her to his lap by pulling her towards him. While she sat on his lap, he whispered in her ear, and kissed her on the cheek. He fondled her breasts. She was alone during this visit. She was sixteen years old. She thought the situation was very strange and she was uncomfortable.

At a subsequent visit, when she was approximately 17, she was scheduled for a full checkup. Patient K was alone with Dr. Izzeldin during the appointment. No chaperone was present. The appointment started with Dr. Izzeldin pulling her into a full body-to-body hug that made her uncomfortable.

During the appointment, Dr. Izzeldin told her he wanted to do a breast examination. He did not provide a gown. He left the room and waited for her to take off her shirt and bra.

When he returned, Dr. Izzeldin proceeded to do what he purported was a breast examination. During the examination, he fondled her breasts sexually. Afterward, he remained in the room while she put on her shirt, depriving her of privacy.

In addition, Dr. Izzeldin again pulled Patient K to sit on his lap and whispered in her ear. Again, he kissed her cheek. This time, he inserted his hands down her shirt, under her bra and fondled her breasts. She felt numb. She was shocked.

He asked her if she wanted to have a Pap smear. He asked if she was sexually active. She said no, and refused the Pap smear. She did not want him to touch her.

This was Patient K's final visit with Dr. Izzeldin. She never returned because she was terrified. She did not report what occurred to her parents or authorities. In the following two years, she developed an eating disorder, and eventually discussed what occurred with her therapist.

Dr. Izzeldin's conduct described above constitutes sexual abuse of a patient and is disgraceful, dishonourable and unprofessional.

6. (vi) Patient L

Dr. Izzeldin was Patient L's family doctor for about seven years, between the ages of 11 and 17. She suffered from depression as a teenager.

In 2013, Dr. Izzeldin prescribed Patient L psychotropic medications. She attended Dr. Izzeldin's office frequently for prescription renewals which required a visit with the physician.

During several appointments in 2013, Patient L was seen alone by Dr. Izzeldin, while her mother or father waited in the waiting room. During these appointments, Dr. Izzeldin hugged her at the end of the appointment. The hugs were usually from the side, but occasionally they involved a full frontal hug. The hugs lasted for a few seconds and made Patient L uncomfortable.

During one appointment when she was alone, Dr. Izzeldin checked her breathing. He complimented her on her bra, saying "that's a nice bra".

At a certain point, Patient L told her mother that she was uncomfortable seeing the doctor alone. Her mother began accompanying her into the appointments. Her mother witnessed Dr. Izzeldin hugging her daughter, even after she began accompanying her.

In 2014, Patient L disclosed this information to a psychiatrist who assisted her to find another family physician.

Dr. Izzeldin's conduct described above is disgraceful, dishonourable and unprofessional.

7. (vii) Patient M and Mr. N

Patient M came to Canada, after the war in the region where she was born. Patient M and her children became patients of Dr. Izzeldin in 2006. Patient M was diagnosed with post-traumatic stress disorder as a result of her experience during the war.

Patient M often attended appointments with her children. Her English is limited: sometimes, a translator was arranged. When there was no translator, her child translated during the appointments or she made do without. Patient M understands English better than she can speak it.

Patient M experienced pain in her left side and her back, and made frequent appointments with Dr. Izzeldin. At one appointment, Dr. Izzeldin asked why she came in so many times. Patient M told him she wanted to know what was going on with her health. Dr. Izzeldin said to her, "Come to my country, you will never be sick". At another appointment he said to her, "Don't be scared. I'm not sleeping with you." He was examining her chest with a stethoscope when he made this comment.

At a subsequent appointment, in 2007, Patient M complained of breast pain. Dr. Izzeldin told her to leave her children playing in the waiting room, and to come into his examination room. He instructed her to remove her top. During that appointment, no translator was present. She was alone with Dr. Izzeldin.

Prior to undertaking the breast examination, Dr. Izzeldin failed to:

- (a) explain why the breast examination was appropriate in the circumstances;
- (b) explain the steps involved in the examination, and why he would be required to palpate certain areas of Patient M's breasts, with the result that he failed to obtain informed consent; and
- (c) ascertain whether Patient M was comfortable before or during the examination.

Patient M was extremely uncomfortable during the examination. Dr. Izzeldin pressed aggressively on her breasts. She asked him to explain why he was examining her and he replied it was because she was sick. During the examination, Patient M felt that he was pressing her breasts inappropriately. She experienced great discomfort during the examination.

Sometime after the appointment, Patient M started crying. She disclosed to her husband, Mr. N that Dr. Izzeldin had said inappropriate things to her in previous appointments. Mr. N was not a patient of Dr. Izzeldin.

Mr. N was concerned with how Dr. Izzeldin had been treating his wife. In early 2008, he accompanied his wife to Dr. Izzeldin's office. Mr. N confronted Dr. Izzeldin. Dr. Izzeldin grabbed Mr. N's arm, pushed him, such that he hit the wall, and swore at him.

Dr. Izzeldin discharged Patient M from his practice following this encounter.

Dr. Izzeldin's conduct described above in respect of Patient M and Mr. N is disgraceful, dishonourable and unprofessional.

8. (viii) Patient O

Patient O became a patient of Dr. Izzeldin's after she moved to London. She immigrated to Canada a few years earlier.

Patient O attended her first appointment with Dr. Izzeldin with her then-husband. Nothing unusual occurred. Dr. Izzeldin shook their hands.

In 2011, Patient O separated from her husband. She began attending appointments alone. At each of her appointments, Dr. Izzeldin greeted her by giving her his hand, as if

to shake hands. He then grasped her hand and pulled her towards him tightly, into a body-to-body hug. Patient O felt him press his body against her breasts. These hugs lasted a few seconds. This made Patient O uncomfortable.

Following her separation, Patient O had trouble sleeping. She asked Dr. Izzeldin for a prescription to assist. At this encounter, she disclosed to Dr. Izzeldin that she had not had much sexual contact with her ex-husband. Dr. Izzeldin responded by saying he could not believe her husband didn't want to have sex with her, because she was very "hot". Patient O was surprised and felt his comments were inappropriate.

Patient O was experiencing pain in her feet and saw Dr. Izzeldin for a referral for an x-ray and to a specialist. At the appointment, he asked to see her feet. After examining her, he began rubbing her feet and leg, making her uncomfortable. As she was leaving, Dr. Izzeldin came up from behind her and hugged her from behind. His whole body came into contact with her back. She was very uncomfortable.

On multiple occasions, Patient O asked the receptionist to switch to a female physician. She was advised none were available.

Patient O was accustomed to going to the doctor for an annual physical examination. Because Dr. Izzeldin had made her uncomfortable, she told him she did not want him to give her a Pap test. Instead, she went to the women's clinic for the Pap test and breast exam and then returned to Dr. Izzeldin's for the rest of the examination.

When Patient O returned for the physical examination near the end of 2013, Dr. Izzeldin told her to remove her top and bra because he needed to listen to her heart. They were alone in the examination room. He began listening to her heart with the stethoscope and then asked her to lie on the examination table.

While Patient O was lying down, Dr. Izzeldin started touching her breasts. She told him her breasts had been checked at the women's clinic, but he insisted on conducting a breast exam. Dr. Izzeldin began touching her breasts and rubbing her nipples in a sexual manner. As he rubbed her nipples, he asked whether she was sensitive to his touch, and what she felt. He touched both nipples at the same time, in a sexual manner. Patient O was scared.

Patient O said she had to leave. Dr. Izzeldin stayed in the room while she put on her clothes and watched her get dressed. Before leaving, she asked Dr. Izzeldin for her blood test, and asked him to check for everything, including HIV. He said to her, "what do you mean, for everything? Are you having sex without condoms?" He wanted to talk with her in his office, but she refused.

Patient O did not return to see Dr. Izzeldin again.

Dr. Izzeldin's conduct described above constitutes sexual abuse of a patient and disgraceful, dishonourable or unprofessional conduct.

Disposition

On October 29, 2018, the Discipline Committee ordered and directed that:

- The Registrar revoke Dr. Izzeldin's certificate of registration effective immediately.
- Dr. Izzeldin appear before the panel to be reprimanded.
- Dr. Izzeldin reimburse the College for funding provided to patients under the program required under section 85.7 of the Code, by posting an irrevocable letter of credit or other security acceptable to the College, within thirty (30) days of this order in the amount of \$48,180.00.
- Dr. Izzeldin pay to the College its costs of this proceeding in the amount of \$10,180.00 within thirty (30) days from the date of this Order.

3. Dr. S. Kayilasanathan

Name:	Dr. Suganthan Kayilasanathan
Practice:	Family Medicine
Practice Location:	Toronto
Hearing:	Allegations - Uncontested Penalty – Not Opposed
Finding/ Written Decision Date:	September 21, 2018
Penalty Decision Date:	December 3, 2018
Written Penalty Decision Date:	January 29, 2019

Allegations and Findings

- sexual abuse of a patient - **proven**
- disgraceful, dishonourable or unprofessional conduct - **proven**

The allegations arose from alleged conduct by Dr. Kayilasanathan in relation to Ms A. Dr. Kayilasanathan and Ms A knew each other socially prior to Ms A being seen by Dr. Kayilasanathan on two occasions at a walk-in clinic one week apart. At both clinic visits, the medical record of Dr. Kayilasanathan established that he took a history and examined Ms A. At both clinical visits, Dr. Kayilasanathan provided Ms A with a medical note to excuse her from examinations. It was alleged that Dr. Kayilasanathan and Ms A engaged in sexual intercourse and oral sex on a single occasion between the two clinic visits when Dr. Kayilasanathan and Ms A were in a physician-patient relationship.

Sexual Abuse of a Patient

The Committee found that the allegation of sexual abuse was proven, that is, Dr. Kayilasanathan engaged in sexual relations with Ms A concurrent with a doctor-patient relationship.

The Committee found on the testimony of Ms A and a hotel manager and reservation information from the hotel that Dr. Kayilasanathan and Ms A engaged in sexual intercourse and oral sex at an Inn on a date between Ms A's two clinic visits to Dr. Kayilasanathan.

The Committee found that Dr. Kayilasanathan established a doctor-patient relationship with Ms A on the date of the first clinic visit which continued through to the date of the second clinic visit based on the following:

- Dr. Kayilasanathan had a patient file for Ms A, which included on the date of the first clinic visit, a detailed description of a history, physical examination, diagnosis, and plan of management, and direction for a follow-up return to the clinic in one week or prn (as needed);
- Dr. Kayilasanathan's patient file for Ms A for the follow-up appointment on the date of the second clinic visit also included a detailed description of the history, physical examination, and diagnosis, and plan of management. Given the plan of management noted in Ms A's patient file, which included a return to the clinic in one week, the Committee found that a second visit was planned as a follow-up to the first visit, indicating a continuity of care. Accordingly, the Committee rejected the submission from Dr. Kayilasanathan's counsel that a doctor-patient relationship, if there had been one, was terminated after each visit;
- Dr. Kayilasanathan billed OHIP for an intermediate assessment for each of the visits for specified services provided to Ms A.
- There was a notation on the clinic's medical record for Ms A identifying Ms A as the patient.
- Dr. Kayilasanathan issued two medical notes to Ms A excusing her from her examinations. The Committee found that the provision of a medical note is part of providing medical care to a patient and constitutes a medical service. The medical certificate of the date of the second clinic visit states that Dr. Kayilasanathan saw Ms A on that date for medical reasons, indicates she is unable to attend exams due to illness/injury, that she will return if she is better and invites further inquiry of him if there are any questions or concerns. A medical note is similar conceptually to a prescription for medication; it is understood to be issued by a physician on the basis of his or her professional judgment after an assessment of a patient and to be relied on by the intended recipient. The recipients of medical notes, such as employers and organizations, including administrators in this case, are expected to respect the recommendations and directions made by a physician. This is an example of the special authority granted to physicians.

The Committee concluded that Dr. Kayilasanathan, by his actions in requesting Ms A to attend at his clinic, taking a history and conducting examinations, assessing Ms A as a patient and making a diagnosis and treatment plan, creating a medical record which included a plan for a return visit, billing OHIP and providing to Ms A medical notes excusing her because of illness from examinations, established a doctor-patient relationship with her on the date of the first clinic visit, which continued through to the follow-up appointment one week later on the date of the second clinic visit.

Disgraceful, Dishonourable or Unprofessional Conduct

The Committee also found that Dr. Kayilasanathan failed to maintain the appropriate boundary between physician and patient in having sexual relations with Ms A after he commenced a doctor-patient relationship and for that reason his conduct is disgraceful, dishonourable or unprofessional.

Immediate Interim Suspension

Given the Committee's findings, the Committee made an immediate interim order suspending Dr. Kayilasanathan's certificate of registration, pursuant to section 51(4.2) of the Health Professions Procedural Code (the Code), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, until a penalty order was made under subsection 5 or 5.2 of the Code.

Disposition

On December 11, 2018, the Discipline Committee ordered that:

- The Registrar revoke Dr. Kayilasanathan's certificate of registration effective immediately.
- Dr. Kayilasanathan appear before the panel to be reprimanded.
- Dr. Kayilasanathan pay to the College costs in the amount of \$46,220 within 30 days of the date of this Order.

Appeal

On October 19, 2018, Dr. Kayilasanathan appealed the decision of the Discipline Committee to the Superior Court of Justice (Divisional Court). Pursuant to s.71.1 of the Health Professions Procedural Code, the interim suspension of Dr. Kayilasanathan's certificate of registration remains in effect despite the appeal.

4. Dr. P.A. Mitchell

Name:	Dr. Paul Albert Mitchell
Practice:	Independent Practice – GP Psychotherapy
Practice Location:	Toronto
Hearing:	Allegations - Contested Penalty – No position taken by Dr. Mitchell
Finding/ Written Decision Date:	June 18, 2018
Penalty Decision Date:	September 28, 2018
Written Penalty Decision Date:	November 26, 2018

Allegations and Findings

- sexual abuse of a patient - **proven**
- failed to maintain the standard of practice of the profession - **proven**
- disgraceful, dishonourable or unprofessional conduct - **proven**
- incompetence – **proven**

Dr. Mitchell is a GP who has practised exclusively in psychotherapy in Ontario since 1991.

The findings against Dr. Mitchell relate to a single complainant, Patient A, who he saw as a patient for approximately 200 sessions from 2009 to 2013. Patient A initially recorded her sessions with Dr. Mitchell because she wanted to listen to them again and informed Dr. Mitchell of so doing. Later on, she recorded the sessions without his knowledge, because she believed that she was being criticized and demeaned by Dr. Mitchell, and was concerned that no-one would believe her.

Patient A began seeing Dr. Mitchell in 2009 because of symptoms of anxiety, depression and suicidality. Dr. Mitchell initially diagnosed the patient with mild depression and an anxiety disorder. Later on, these diagnoses evolved to a bipolar mood disorder and adult attention deficit disorder. Other diagnoses documented by Dr. Mitchell, at the end of his therapy with her, included borderline personality disorder and antisocial personality. Dr. Mitchell treated Patient A by using a therapeutic technique variously called by him “PSR” (Problem-Solving Response) therapy, “bitching and complaining therapy,” as well as “seeing sequence therapy.”

Patient A first contacted the College in 2011 regarding filing a complaint against Dr. Mitchell, but did not make a formal complaint until May 16, 2013. After Patient A had filed her complaint, she text-messaged Dr. Mitchell requesting an appointment. After exchanging a series of text-messages, Dr. Mitchell and Patient A met face-to-face in August 2013 on the grounds of a university. Patient A returned for appointments with Dr. Mitchell at his office, between August and September 2013. The final appointment was in September 2013, during which Dr. Mitchell gave Patient A a letter stating that he would continue to provide medical care to her, because he never terminated a therapeutic relationship with his patients and because he never gave up on patients and he would continue to provide medical care to her, unless she instructed him to do otherwise.

Failed to Maintain the Standard of Practice of the Profession

- Failing to communicate in a professional manner, including verbal abuse, shunning, swearing and threatening to terminate the doctor-patient relationship

The Committee found that Dr. Mitchell’s therapeutic technique was abusive, unprofessional and a poor fit for Patient A. The Medical Expert retained by the College expressed concerns about how Dr. Mitchell’s therapeutic technique could be of benefit

to any patient. The recorded sessions were a shocking example of ignoring or "shunning" Patient A., verbally abusing her by yelling and swearing at her and repeatedly threatening to terminate therapy with her. His use of the vernacular included repeated use of "bullshit," "fuck" and he went so far as to say "you suck" and that there was no hope for her. In the Committee's view, this was a glaring example of a failure to maintain the standard of practice.

- Failing to maintain appropriate boundaries including managing transference, making comments of a sexual nature, texting, permitting homework in the office and meeting Patient A outside of the office

The Medical Expert opined that Dr. Mitchell failed to maintain and manage boundaries with Patient A, including managing transference and counter-transference issues and making comments of a sexual nature. Dr. Mitchell did not disagree that he encouraged Patient A when she told him of her sexual fantasies about him. Dr. Mitchell also did not disagree that he made repeated references to a "sex on a stick" dress and called her a sexy coy bitch. Dr. Mitchell excused this as needing to make a point. The Committee did not agree and found a failure to maintain the standard of practice.

Dr. Mitchell repeatedly took refuge in the premise that it was the patient who directed the therapy and that all of his therapeutic interventions were ultimately in the interest of the patient. The Committee stated that the outcome of this, given the patient's illness, was perhaps predictable or as opined by the Medical Expert in her summation of the texting between Dr. Mitchell and the patient, "one chaotic mess." The Committee did not accept Dr. Mitchell's view that standards of practice are meant to be breached by physicians as "exceptions" or that standards of practice can be adapted arbitrarily to the patient with whom they are working. Standards are not to be adapted at the whim of the therapist. There are elements of courtesy, respect and decorum, all of which are part of standards, many of which were violated in this case.

There was no dispute that Dr. Mitchell met with Patient A in a park on the grounds of a university, that she did school homework during her office visits and that he failed to set a professional tone in their therapy sessions. The Committee accepted the Medical Expert's opinion that these constituted boundary violations and a failure to maintain the standard of practice. The Committee also found that Dr. Mitchell's therapy caused harm to Patient A, even though this was not crucial for a finding of professional misconduct.

- Continuing to provide care after Patient A had complained

Dr. Mitchell continued to provide treatment to Patient A, despite there being a clear conflict of interest after the patient had filed a complaint to the College. The Committee determined that his continued involvement with the patient after she had filed a complaint was self-serving on the part of Dr. Mitchell. He admitted in his testimony that he intended to build a record against the patient on the subterfuge of continuing her therapy. During this time, Patient A had other physicians who were providing care to her. The Committee accepted the Medical Expert's opinion and found that Dr. Mitchell

failed to maintain the standard of practice of the profession in continuing to provide care to Patient after Patient A complained to the College about his care.

Disgraceful, Dishonourable or Unprofessional Conduct

The Committee found that Dr. Mitchell engaged in disgraceful dishonourable or unprofessional conduct in his care and treatment of Patient A.

Dr. Mitchell verbally abused Patient A including: use of profanity; repeatedly threatening to terminate therapy; allowing and at times encouraging crossing of professional boundaries through extensive text messaging which blurred the doctor-patient relationship; and failing to properly manage transference and counter-transference. He made comments of a sexual nature. In engaging in this conduct, Dr. Mitchell disrespected Patient A and did not act in her best interest.

Dr. Mitchell placed himself in a conflict of interest with Patient A when he continued to treat and communicate with her after she had made a complaint about him to the College. It should have been readily evident to him that this would be highly improper. Yet he continued to communicate with her for some months and made references when texting with Patient A, to a professional death penalty and not being “tit for tat.” In doing so, Dr. Mitchell acted in his own self-interest and not in the interest of Patient A, who was already seeing physicians for her medical care.

Sexual Abuse

The Committee determined that Dr. Mitchell engaged in behaviour or remarks of a sexual nature. The behaviour and remarks were not appropriate to the medical services that Dr. Mitchell was providing to Patient A.

Patient A developed a sexual transference towards Dr. Mitchell. Dr. Mitchell encouraged her, telling her to enjoy her fantasies. Dr. Mitchell did not dispute this and it is recorded in the medical record of Patient A.

Dr. Mitchell introduced the term “sex on a stick” during treatment sessions to describe the patient’s manner of dress and behaviour and in one session, called her a “sexy coy bitch.” During one session where Patient A brought a dress to her session with Dr. Mitchell, he suggested that she try on her “sex on a stick dress” and then suggested she did not have to try it on because it would obviously highlight her “breasts and butt.” The Committee saw no therapeutic value in Dr. Mitchell’s sexual remarks to Patient A and found that they were inappropriate to the services that he was providing to Patient A.

The Medical Expert opined that the use of the term “sex on a stick” was a sexual comment about the patient’s appearance. She opined that the exchange between Patient A and Dr. Mitchell about her dress was one where Dr. Mitchell was making sexualized comments about the patient’s appearance. The Committee accepted this

and found that the evidence of Patient A, the clinical records, Dr. Mitchell's own admissions and the Medical Expert's opinion established that Dr. Mitchell made comments of a sexual nature to Patient A and therefore engaged in sexual abuse.

Incompetence

The Committee found that Dr. Mitchell is incompetent in that he demonstrated a lack of knowledge, skill or judgment in his care of Patient A, and demonstrated disregard for her welfare.

The Medical Expert made reference to the patient's diagnosis and stated that treatment should have been driven by the diagnosis. Dr. Mitchell's record made no reference to the patient having a borderline personality disorder other than as opined by psychiatric consultations completed by another physician in March 2010 (this consult being requested by Patient A's family doctor, not Dr Mitchell, and reassessed in September 2011). Patient A testified that Dr. Mitchell had told her that she did not have a diagnosis of borderline personality disorder. Dr. Mitchell's chart contained one mention of borderline personality disorder in August 2013. Chronologically, this was at the end of her therapy sessions with him which began in 2009. Dr. Mitchell did not appear to understand the nature of his patient's mental disorder that brought her to treatment.

The Committee acknowledged that Dr. Mitchell appeared to have a detailed understanding of his therapeutic technique. It was unclear, however, whether he was aware that the patient continually struggled to understand and implement his technique through its five-year course. Further, the Committee saw the therapeutic technique as quite complex and was not persuaded that it was applicable to patient treatment in general or appropriate to Patient A. The Committee noted that Dr. Mitchell continues to utilize this therapeutic technique with his other patients. At the hearing, he strongly defended his use of his therapeutic technique with Patient A, despite objective evidence to its harm.

Dr. Mitchell repeatedly attempted to put responsibility on the patient and take little responsibility for problems encountered in the therapeutic relationship, holding rigidly to his model of therapy. This rigid adherence to his therapeutic model appeared to blind Dr. Mitchell to some very troubling aspects of the sessions where boundary violations, transference and counter transference, and sexual comments were noted. The Committee recognized that the therapeutic interaction between a physician and patient is one of a power imbalance. It is the responsibility of the physician to control, guide, and manage the therapeutic interaction. In the end, management of the patient's symptoms is the responsibility of the physician: it is not the responsibility of the patient. Patients come to their physician because they are ill and seek help.

The Committee found that Dr. Mitchell's lack of knowledge, skill or judgment is of such nature that he is incompetent. The Committee found that he poses a risk of harm to patients.

Disposition

On September 28, 2018, the Discipline Committee ordered that:

- the Registrar revoke Dr. Mitchell's certificate of registration effective immediately.
- Dr. Mitchell reimburse the College for funding provided to patients under the program required under section 85.7 of the Health Professions Procedural Code, and shall post an irrevocable letter of credit or other security acceptable to the College to guarantee payment of such amounts within thirty (30) days of the Order becoming final, in the amount of \$16,060.00.
- Dr. Mitchell appear before the panel to be reprimanded within thirty (30) days of the Order becoming final.
- Dr. Mitchell pay costs to the College in the amount of \$54,180.00 within thirty (30) days of the date of this Order.

5. Dr. P. Picard

Name:	Dr. Pierre Picard
Practice:	Neurology
Practice Location:	Hamilton
Hearing:	Allegations – Uncontested Penalty – Joint Submission
Finding/ Penalty Decision Date:	October 9, 2018
Written Decision Date:	November 26, 2018

Allegations and Findings

- sexual abuse of ten patients – **proven**
- disgraceful, dishonourable or unprofessional conduct - **proven**
- failed to maintain the standard of practice of the profession - **proven**
- found guilty of an offence relevant to suitability to practise - **proven**
- incompetence - **withdrawn**

Sexual Abuse, Disgraceful Dishonourable and Unprofessional Conduct, Failure to Maintain the Standard of Practice***Patient A***

Patient A was referred to Dr. Picard in around 2012 for treatment related to neck injury. She was referred for pain management and concussion. At the outset, she indicated that she was suffering from post-traumatic stress disorder following a sexual assault. She saw Dr. Picard at his office in a hospital. In 2015, Dr. Picard started to provide lidocaine injections, initially to her neck and shoulder area, and later to her back and buttocks.

After Patient A received her injections while lying on her stomach at an appointment in 2015, Dr. Picard told Patient A that he would also provide injections in her chest area, in the pectoralis muscle, for which Patient A flipped over to lay on her back. She was gowned and her bra was removed. Her breasts were exposed. The process involved Dr. Picard touching the area of her right breast locating an injection site in the pectoralis and then rubbing around the cleavage area. Patient A told Dr. Picard that she had breast implants. He asked whether the surgery had affected the sensation in her nipples. She thought this was unusual. While lying on her back face-up, Dr. Picard used his elbow to push Patient A's leg to the side and reached his hand between her legs, pushing her legs apart. He massaged her buttocks in the injection area for 15-20 seconds in a different manner and longer than at previous appointments. He told her that this makes the medication work faster. She was shocked. The massage was of a sexual, not clinical nature. At the end of the visit, Dr. Picard told Patient A that in the future she could see him in his private office as he would have more time to massage her. Patient A said she would call his secretary. She felt uncomfortable, violated and confused. Dr. Picard texted her the next day that he had an opening and she could come back if she felt any pain. She said she was okay, but he continued to send her text messages offering to see him in the clinic that week. Patient A was concerned and did not return to see Dr. Picard again.

An expert retained by the College, a certified anesthetist practising in chronic pain, opined that Dr. Picard failed to maintain the standard of practice of the profession, noting that widespread injections were not clinically indicated, there was no reason to extensively massage the buttocks, and there was no supporting documentation of the injections that were billed to OHIP. With respect to the manner in which Dr. Picard massaged the patient, the expert indicated that the technique of leaning his elbow upon her leg and reaching beneath the buttocks from the anterior is unnecessary and inappropriate.

Patient B

Patient B was referred to Dr. Picard in 2014 for multiple sclerosis (MS). In 2016, at a scheduled appointment, she was seen by the nurse, who did a physical assessment, and then saw Dr. Picard. She complained of extreme sweating. Dr. Picard indicated that the overheating was due to her MS. They discussed her fatigue and drug coverage plan. As Patient B got up to leave, Dr. Picard got up, came around his desk, put his hand down the top of her dress and felt both of her breasts, telling her that he was checking for chafing regarding her complaint of extreme sweating. Patient B was shocked; she did not say anything and left immediately. He did not inform her that he planned to check her breasts. There was no need to do so.

Patient B terminated her doctor-patient relationship with Dr. Picard after this appointment. She later telephoned Dr. Picard's nurse indicating that Dr. Picard touched her inappropriately and that he told her there was chafing under her breasts. Dr. Picard told the nurse not to make an entry into Patient B's electronic record regarding this,

which was inappropriate and unprofessional. As a result, the nurse decided to document this on a separate piece of paper.

Patient C

Patient C was referred to Dr. Picard in 2014 as a result of work-related injuries. At her initial appointments with Dr. Picard, Patient C remained clothed. Dr. Picard administered lidocaine injections around her head, neck and upper back. In subsequent appointments, the injections extended to the pectoralis, down the back to the lower back, and the periformis. She remained standing throughout the injections. After injecting the pectoralis, Dr. Picard touched both sides of each breast with an open palm. On occasions, he complimented her, stroked her necklace telling her it was beautiful, and touched her tattoo on her shoulder commenting that it was lovely.

In the summer 2016, Patient C's appointment proceeded differently. While she usually received injections in his office, standing up, Dr. Picard took her into the treatment room with an examination table. Patient C told him that she was an in-patient in a post-traumatic stress treatment program and had been released to attend this appointment. After administering injections to her neck area in a usual manner, Dr. Picard told Patient C that her pelvic floor was tight and asked her to lie face down on the examination table, which she found stressful based on her past experiences. When lying down, Patient C felt Dr. Picard's hand slide down inside her shorts into her underwear, massaging in circular motions between her buttocks and the labia, and approaching closer to her vaginal opening. He asked her if she was okay and she replied "yes". He told her she was very tight. Patient C was immobilized with fear and confused as Dr. Picard was providing reports for her claims against WSIB, her employer and disability benefits. When Patient C turned over to her back, Dr. Picard lowered her shorts and underwear, exposing her pubic hair, and administered injections in her pelvic area and in her legs near the groin, which he had not injected before. He placed his hands over her clitoris and pubic area and said, "That should get things flowing". He massaged her pelvic area. She was very shocked and confused.

On another occasion, Dr. Picard placed Patient C against the wall, pulled up her shorts, and while facing her, administered an injection in her femoral area. Although Patient C was concerned, she attended the next appointment, because she was desperate for injections and trusted Dr. Picard. In addition to injecting her head neck and upper back, he injected her pectoralis muscle on both sides and felt each side of both breasts as he had been doing for months when administering injections.

Patient D

Patient D was referred to Dr. Picard in 2015 for Cyclic Vomiting Syndrome and migraine headaches. Due to her work schedule, she attended appointments at the end of the day after staff had left. At her appointments, Dr. Picard requested that she undress completely, except of her underpants. Initially, she received injections in her head, neck

and shoulders, and then progressed down her back, including her buttocks and hips. Following each injection, Dr. Picard massaged the area, including her back, shoulders, buttocks and hips for about an hour, stating that this was necessary to make the medication more effective. College expert opined that that there was no clinical indication for this type of extensive touching and massaging. When, at times, Patient D cried, Dr Picard hugged her and told her she was very sensitive. Once, he complimented her and told her she was pretty.

Initially, Patient D saw Dr. Picard once every two months, but later, upon his request, the appointments increased to every three weeks or so. At an appointment in summer 2016, when patient D complained of abdominal pain and cramps, Dr. Picard offered to inject her in the pubic and groin areas explaining that he does that for many patients. She agreed as she trusted him. As Dr. Picard administered injections, he laid his hand on her groin area, while she was standing, dressed only in her bra.

At a subsequent appointment, after giving her numerous injections and massaging her head, neck back and buttocks, Dr. Picard advised that she needed more massages. As patient D stood dressed only in her bra, Dr. Picard stood behind her, placed his hands on her back and began to identify and name various muscle groups. He reached his arm around her and grabbed her breast, stating it was pectoralis muscle. She quickly collected her belongings and left.

Patient E

Patient E was referred to Dr. Picard following an accident to address complaints of back pain. At initial appointment, Dr. Picard ordered tests, prescribed lidocaine cream and other medications, and gave her lidocaine injections, mostly in the neck, to relieve pain. Initially, she was not required to disrobe, the appointments seemed comfortable. In the summer 2014, Dr. Picard recommended a massage treatment. Patient E arrived for her massage appointment at the end of the day when the nurse was leaving for the day. She removed her top, but there was no gown or blanket. When Dr. Picard asked if she wants lights “on” or “off”, she replied “off”. Dr. Picard started touching her back. It seemed to her that he was excited sexually. He asked her to roll over, touched her brachial plex and her affected arm, and grazed her breast. He asked if it was okay and she replied it was. He touched her breasts sexually, put his lips close to hers telling her to pretend they were kissing and moved his hand to her groin area. He went to put his hands down her pants. She stopped him telling him “I think that is enough” and that she did not want things “to get messy”. She got dressed, they chatted briefly and she left. Shortly thereafter, Dr. Picard called her from a private number telling her he enjoyed the appointment and that he wanted to see her again. Patient E told her relative and considered reporting him, but thought the sexual aspect of their relationship maybe beneficial for her treatment, although she understood it was perverse.

At their next appointment, Dr. Picard brought her beer and became sexual right away: kissing touching, oral sex and then intercourse. In August 2014, Dr. Picard picked up

Patient E from home, took her to a hotel where he booked a room, and they had sexual intercourse. Thereafter, Dr. Picard went to Patient E's house almost daily, they had sexual intercourse; he sometimes provided her with lidocaine injections in her home and she attended his office to receive treatment and have sexual intercourse. He also gave her cosmetic Botox injection, once at his office and once in her home.

Although Dr. Picard had a girlfriend, he and Patient E continued to become very involved. He told her that their relationship had to be secret as it was prohibited by the College. When he was investigated by police because of a patient complaint, he told Patient E that he was going to discharge her from his care to protect their relationship and would see her only in her house. She was concerned that she would lose him as a doctor, but he told her he would continue to treat her and thereafter administered injections to her on a regular basis at her home, brought her medications, and provided her with prescriptions. He would also bring alcohol to Patient E, offered her money, and a job at his office. When she could not attend the office daily due to her pain, he brought a computer to her house so she could work for him from home. He visited frequently and they would have sexual intercourse. She also worked for him a couple hours a week at his clinic at a hospital.

In early 2016, Dr. Picard went on vacation with his girlfriend whom he eventually married. Patient E's relationship with Dr. Picard became strained and their sexual relationship ended.

Patient F

Patient F was referred to Dr. Picard in 2012 for symptoms suggestive of multiple sclerosis. Dr. Picard later confirmed the diagnosis and started Patient F on treatment. She complained of visual disturbances, headaches, neck and back pain. Dr. Picard offered lidocaine injections and discussed steroids for the pain. Patient F was not interested in steroids treatment. Her visits with Dr. Picard included injections in her head, neck and back. She believed this helped to control pain and became very trusting of Dr. Picard as he supported her pursuit of alternative treatment and did not pressure her into steroid treatments.

In 2015, while under stress from separating from her spouse, Patient F experienced difficulty with balance and "foot drop". Dr. Picard was aware of the circumstances and their relationship began to change. He complimented her, told her she was a pretty woman and that he liked her tattoos. Dr. Picard recommended injections in her lower back and legs, and later to her buttocks. Dr. Picard followed all injections with a lengthy massage, telling Patient F that it was to allow medication reach the nerve and work the lidocaine through. He asked her to come more frequently and she obliged as she trusted him and felt comfortable with him.

On one occasion, Dr. Picard told her that her pelvic area was too tight and this was causing spasms in her legs and the "foot drop" to increase. He told her that she would

benefit from injections in her groin area. Patient F agreed. Dr. Picard began massaging her vulvar area, sliding her underwear over to the side, fully exposing her vagina, and placing his fingers at the opening of her vagina, bumping his fingers up against her clitoris. He requested that she attend every two weeks. On multiple appointments, he massaged Patient F's vulva in a sexual manner. She would close her eyes and wait for it to be over.

Patient F told her friend about her treatment as she thought it was weird. The friend was shocked, but Patient F assured her that it was part of the treatment as she trusted Dr. Picard. She was uncomfortable with what was occurring and decided to stop attending.

Patient G

Patient G was referred to Dr. Picard in 2013 for seizure disorder. She was a victim of domestic assault and had sustained multiple injuries. Dr. Picard prescribed medication for seizures, administered Botox, and administered lidocaine injections for headaches. He often complimented her, her outfit and hair.

At an appointment in the summer 2016, Patient G wore shorts. Dr. Picard was injecting in her lower back and hip. Patient G was lying on the examination table. He pulled her shorts on one side along with her underwear, exposing her vagina, administered the injections and then placed his hand directly on top of her vagina over her shorts asking her if she was "okay here". She pushed his hand away.

Patient G returned to Dr. Picard as she trusted him and need the injections. At the next appointment, she wore a bathing suit as it was tighter; she hoped to avoid exposure. While lying on her stomach, Dr. Picard moved his fingers along her groin toward her vaginal are, massaging and pushing. He touched on the outside of her labia. He placed his entire hand from patient G's buttocks to her vaginal area and cupped it. There was no clinical basis for this.

Patient H

Patient H was referred to Dr. Picard in 2013 due to headaches, light sensitivity, aggravation of pre-existing cervical and lumbar spine problems, bilateral trapezi, bilateral shoulder strains, and driving anxiety.

On one occasion Dr. Picard offered Patient H free cosmetic Botox injections, stating that somebody had cancelled and he had an open vial. Dr. Picard administered lidocaine injection in perineal and groin area while she lay on her stomach with her knees turned outwards. He would then rub her inner thigh and the groin area under her buttocks.

At one appointment which was scheduled in the late afternoon, Patient H brought her family member with her as she felt uncomfortable. At another visit, Dr. Picard offered

Patient H his private cell phone and told her that he could provide injections in her home if she was in a lot of pain.

In early 2015, patient H attended Dr. Picard's office for injections in the morning and they discussed having a second set of injections in the afternoon as the next day the office would be closed for the weekend. Later that day, Dr. Picard telephoned Patient H from his personal cell phone and asked her to return for injections at the end of the day. When she attended his office, no staff was present. She took off her sweater and pants and Dr. Picard asked her to remove her top, which she always had on in her earlier appointments. While lying on her stomach, Dr. Picard injected her in buttocks and began tapping her vagina through her underwear. He told her she had perfect skin and anatomy and that she must be tired of hearing how beautiful she is. He then asked her to roll over and injected her groin area. While lying on her back, Dr. Picard then began massaging her vulva area, telling her that he had to massage the medication deep into the nerve. He moved her panties over and massaged her vaginal area including her genitalia in a sexual manner. He removed her underwear. He told her "you're supple now". He told her that her pelvic floor was tight and offered injections or massage. He inserted his fingers into her vagina and stimulated her sexually. She was shocked and stated "if you keep this up, I will have an orgasm". Dr. Picard replied "would you like one?" She said "we are done here." Patient H told Dr. Picard that she had to process what was happening and whether he would be writing this in his report to her family physician. He replied he could get into a lot of trouble and asked that she keep it a secret. He asked her to return for the following appointment. Patient H was in shock. She did not attend the following appointments and immediately reported what occurred to her lawyer, her family doctor, her chiropractor, and the police.

When interviewed by the police, Dr. Picard denied the allegations and asserted that double injections were clinically indicated. College expert opined that Dr. Picard failed to maintain the standard of practice in his treatment of Patient H, noting that there was no clinical indication for a second set of injections in the same day, that this is highly unusual, and the manner in which the femoral and sciatic nerve blocks were performed is not the standard of practice.

Patient I

- 6. Patient I was referred to Dr. Picard in 2014 for pain and intermittent numbness in her arms/hands. She had no complaints at any time about pain in her lower back, her buttocks or her pelvis. At the outset, Patient I disclosed to Dr. Picard that her family member had a neurological disorder. Dr. Picard disclosed personal information to Patient I about his family's medical history. At a subsequent appointment, after Patient I advised the nurse of her marriage separation and the nurse recorded it in her record, Dr. Picard commented on her marriage breakdown at the beginning of the appointment.**

At another appointment in 2015, Dr. Picard started touching Patient I's back, commented that she was very tight and urged her to let him administer injections along her back. She was resistant, but trusted him. Dr. Picard injected her back, and then asked her to pull up her dress. He told her that she was very muscular, that she has great muscle tone, good skin and is very hydrated. He asked her to touch her stomach, and told her she had a gorgeous body. He asked if she had breast augmentation and if he could touch her breasts, explaining that some women with implants lose sensation and that he needed to check for sensitivity in her nipples. He massaged her nipples, remarked that they were very sensitive and that he had never seen anything so beautiful. He then injected Patient I in her legs, asked her to turn over and started to feel the front part of her legs, moved to her pelvic area and proceeded to inject her in the pelvic area telling her that she was very tight. Following the injections, Dr. Picard massaged her legs and pelvic regions, while there was no clinical indication for this touching. He moved to massage her inner thighs, moved his hands to the vulva area, digitally penetrated her vagina, stimulated her clitoris and brought her to orgasm. Although she was confused, she believed this was part of the treatment. She noticed that he was sweating profusely.

After Patient I's initial appointment with Dr. Picard, he sent her text messages frequently, asking how she was feeling and if she needed an appointment. In the latter part of 2015, Dr. Picard told Patient I that he was having trouble in his relationship with his girlfriend, with whom he just moved in, and that they were on the verge of breaking up. Dr. Picard told her he wanted to remove her as his patient because he was interested in her. She replied that she needed him as his doctor and he assured her that he would continue to take care of everything she needed and agreed to continue to treat her. In October 2015, Dr. Picard recorded in Patient I's medical record that she remained symptom free and did not feel the need for more injections. Around that time, Patient I agreed to meet Dr. Picard at a hotel and he performed oral sex on her. They subsequently had intercourse at her home and in his car in a school parking lot.

After October 2015, Dr. Picard treated Patient I in her home on at least two occasions. After their dating relationship ended, he administered lidocaine injections to her at her house on two occasions and told her that she was beautiful and that he missed her skin and breasts. He also left several pre-filled syringes containing lidocaine in her home. On one occasion, Patient I attended his office for injections and they had sexual intercourse, while no one was present in the office. In June 2016, he ordered EMG for Patient I.

Throughout their relationship Dr. Picard engaged in numerous boundary violations with Patient I, including: giving her gifts; loaning her money; engaging her in a business arrangement throwing Botox parties at her house, when he would administer Botox to her clients and share his profit with her; and offering Patient I a job at his office.

Patient J

Patient J was referred to Dr. Picard in 2014 for acute headache and treatment of trigeminal neuralgia. Dr. Picard provided Botox treatment and resumed treating her in 2016.

At her last appointment, Patient J complained of pain in the nerve underneath her legs to her vagina, and painful intercourse. Dr. Picard administered an injection and began touching her vaginal area near her buttocks. He put his hands on her vagina and applied pressure when he injected her. He asked her if she was feeling better. She replied she would know if the treatment worked when she had a relationship with someone and had sexual intercourse. Dr. Picard touched her vagina again and asked her if she was ok. She replied she was uncomfortable. When he asked if she wanted him to stop, she advised him to do what he had to do. She felt he was teasing her, that touching was no longer medical and that he was seeking to arouse her. Dr. Picard asked her to sit up and massaged her shoulders for about 10 minutes. He told her that he liked her, that he should not have done what he had done, and that it was her fault because she was sexy, and gave her numerous compliments. He positioned his face close to hers and she kissed him. He returned the kiss. After this visit, Dr. Picard and Patient J engaged in sexual intercourse in his office.

Shortly thereafter, Dr. Picard told Patient J that they could not have a relationship as she was his patient, and asked her to delete her phone messages. He then provided injections in her house. After some time, Patient J came to his office as she required an MRI and a referral. Dr. Picard continued to treat Patient J in her home. He also employed her in his home to clean and paint. He left syringes containing lidocaine at her home so she could self-inject, gave her original instructions, and told her to not use more than .5cc at each injection.

Criminal Conviction: Sexual Assault of Two Patients

Between November 30, 2016 and February 27, 2017, Dr. Picard was criminally charged with 12 counts of sexual assault in respect of Patients A, B, C, D, F, G, H and I. On August 23, 2018, he pleaded guilty and was convicted of two counts of sexual assault in respect of Patients H and I. The remaining charges were withdrawn. On September 14, 2018, Dr. Picard was sentenced to 18-month imprisonment, followed by three-year probation. He was also ordered to comply with the *Sex Offender Information Registration Act*, provide a sample of his DNA, and have no contact with any of the victims named in the proceeding.

Undertakings with the College

In September 2016, during investigation, Dr. Picard entered into a voluntary undertaking with the College not to engage in professional encounters with female patients of any age, unless the patient encounter takes place in the presence of a female monitor who

is a regulated health professional acceptable to the College. In March 2017, Dr. Picard entered into a voluntary undertaking with the College not to engage in any professional encounter with any female patients of any age, in any jurisdiction.

Failure to Maintain the Standard, Incompetence, Failure to Cooperate and Failure to Comply with OHP Regulations

Out of Hospital Premises Inspection Program (OHP program) is a College program that applies to all settings or premises outside a hospital that perform procedures involving the use of anesthesia or sedation. According to the program's mandatory standards, all Level 2 nerve blocks used in interventional pain management can only be performed in out-of-hospital premises (OHP) or a hospital. The OHP program is based on trust and relies on self-reporting from Medical Directors, who are required to notify the program before opening an OHP so that the premises can be inspected to ensure safety and quality of care. Any member planning to operate a premise as an OHP must notify the College and the premises must be inspected and receive "pass" or "pass with conditions" from the Premises Inspection Committee (PIC) prior to providing OHP services to patients.

On the basis of information obtained in the investigation of the sex abuse allegations detailed above, the College learned that Dr. Picard was providing interventional pain treatments to patients, including Level 2 nerve blocks, while working in a premise that was not an approved OHP. On October 26, 2016, PIC directed an unannounced visit of Dr. Picard's facility, which took place on October 27, 2016, and a report was prepared. The Report was considered by PIC on October 31, 2016. The premises received a "Fail". Dr. Picard was not permitted to provide OHP procedures, including nerve blocks. PIC stated that it was concerned that there was a risk to patient health and safety as Dr. Picard had been performing OHP procedures without following the proper notification process and adherence to requirements outlined in the OHP Program Standards. The Committee was of the opinion that Dr. Picard failed to comply with the requirements under Part XI of the Regulation.

College Investigation regarding Standard of Practice and Incompetence

In the course of College investigation, the College expert, an anesthesiologist, reviewed 25 charts from Dr. Picard's practice in which he billed for performing Level 2 nerve blocks between June 2010 and November 2016. The expert opined that:

- Dr. Picard failed to meet the standard of practice in 23 out of 25 charts reviewed, lacked knowledge, skill and judgment and exposed patients to risk of harm or injury;
- Dr. Picard failed to explain changes in management over time, including performance of additional nerve blocks or the adjustment of pharmacotherapy, including narcotics;
- He performed major nerve blocks such as femoral, sciatic pudendal, transverse scapular and trigeminal, in an office setting without monitoring or assistance of

emergency preparedness. Notably, there was no explanation or rationale for initiating treatments in the chart. For example, there were many patients that were seen for headaches for whom he performed femoral or sciatic injections without any justification.

The expert also opined that Dr. Picard displayed a significant lack of knowledge and judgment in his interventional pain and pharmacotherapeutic practice, including:

- Dr. Picard did not thoroughly document patient assessments using the subjective, objective, assessment, plan format in the majority of patient appointments reviewed.
- Dr. Picard did not respond appropriately and specifically to consultation questions.
- Dr. Picard did not implement recommendations from the Canadian Guideline for Safe and Effective use of Opioids in Chronic Noncancer Pain when prescribing opioids to patients (no opioid contract, no urine drug screens, no counselling re: driving, no risk assessment, no assessment of trial of therapy, no low dose trial with concomitant benzodiazepines, no consideration in special populations (e.g. opioid use disorder, peri-partum).
- Dr. Picard greatly increased opioids, benzodiazepines and anti-convulsants simultaneously in a patient referred with a gait disorder and history of syncope, falls and substance dependence.
- Dr. Picard inappropriately prescribed fentanyl patch 75 mcg on a daily basis to a patient that had at least two (2) presentations to the emergency department/hospital for respiratory depression, decreased/altered level of consciousness.
- Dr. Picard prescribed opioids without appropriate assessment or structured opioid therapy in a new mother at high risk for opioid use disorder.
- Dr. Picard did not thoroughly document the procedures being performed; including: consent, technique/approach, needle, type and volume of local anesthetic, aseptic technique, complications, recovery and monitoring.
- Dr. Picard performed major nerve blocks in an office setting (non-OHP approved facility) without evidence of appropriate monitoring, assistance or emergency preparedness.
- Dr. Picard performed nerve block injections without performing an assessment (history, physical exam, investigations, differential diagnosis).
- Dr. Picard did not perform interventional nerve blocks using standard procedures described in regional anesthesia or chronic pain textbooks.
- There is no supporting documentation that Dr. Picard performed interventional blocks using sterile techniques.

The expert concluded that:

- Dr. Picard's clinical practice exposed his patients and society to a potential risk of serious harm;

- Dr. Picard's injection practice was unsafe and was likely to expose his patient's to harm or injury as major nerve blocks have significant complications including: nerve injury, weakness/falls, local anesthetic toxicity (cardiac and respiratory arrest), and infection; and
- Dr. Picard's opioid prescribing was likely to expose his patients' and society to harm by not mitigating the risks associated with opioid medications (substance dependence, drug diversion, respiratory arrest, altered level of consciousness).

Disposition

On October 9, 2018, the Discipline Committee ordered that:

- the Registrar revoke Dr. Picard's certificate of registration effective immediately
- Dr. Picard appear before the panel to be reprimanded
- Dr. Picard reimburse the College for funding provided to patients under the program required under section 85.7 of the Code, by posting an irrevocable letter of credit or other security acceptable to the College, within thirty (30) days of this order in the amount of \$160,600.00
- Dr. Picard pay to the College its costs of this proceeding in the amount of \$10,180.00 within thirty (30) days from the date of this Order.

Incompetence – 3 cases

1. Dr. A.W. Jackiewicz

Name: Dr. Allan Wojciech Jackiewicz
 Practice: Obstetrics and Gynaecology
 Practice Location: Hamilton
 Hearing: Allegations - Uncontested
 Penalty – Joint Submission
 Finding/ Penalty Decision Date: December 5, 2018
 Written Decision Date: February 4, 2019

Allegations and Findings

- incompetence – **proven**
- failed to maintain the standard of practice of the profession - **proven**

PART I – UNCONTESTED FACTS

Dr. Jackiewicz received his certificate of registration for independent practice in obstetrics and gynaecology from the College of Physicians and Surgeons of Ontario (“College”) in 1988. At the relevant times, he practised in Niagara Falls, Ontario, and held privileges at the Niagara Health System (“NHS”).

Registrar’s Investigation Arising from Information Received from the NHS

In November 2013, the College received information regarding Dr. Jackiewicz from Dr. Joanna Hope, Interim Chief of Staff of NHS. Dr. Hope advised that Dr. Jackiewicz had voluntarily ceased booking surgeries, following a hospital report with respect to his surgical practice. At the time of the report, Dr. Jackiewicz had full gynaecological surgery privileges, and was practising under a restricted certificate of registration with respect to his obstetrics practice. In accordance with an Order of the Discipline Committee of the College from 2010, Dr. Jackiewicz was prohibited from managing labour and delivery for all pregnancies with some exceptions: he was permitted to perform elective or on-demand caesarean-section deliveries and he was permitted to act as a surgical assistant to other hospital-based caesarean-sections when a College-approved obstetrician is performing the caesarean-section as the most responsible physician and is in attendance for the duration of the procedure.

In her letter, Dr. Hope confirmed that Dr. Jackiewicz’s hospital privileges had not changed and that he was performing only surgical assists and pursuing his office-based practice in accordance with the 2010 Discipline Committee Order.

On the basis of this information, and the materials provided by NHS, the Inquiries, Complaints and Reports Committee (“ICRC”) approved the appointment of investigators under section 75(1)(a) of the Health Professions Procedural Code (“Code”) in order to conduct a broader investigation into Dr. Jackiewicz’s surgical practice.

On January 8, 2014, College Investigator requested information from the NHS regarding Dr. Jackiewicz including: personnel and medical staff office files; minutes of meetings, correspondence, medical or hospital staff complaints or incident reports; internal or external reviews of his practice; patient complaints; and any patient hospital statistics pertaining to Dr. Jackiewicz. The College subsequently received the information requested from NHS. This included the reports of two external experts who had been retained by NHS to review patient charts and to opine on the standard of practice with respect to gynaecologic surgeries performed by Dr. Jackiewicz. The experts retained by NHS were Dr. Mathias Gysler and Dr. Arthur Zaltz.

Dr. Gysler’s report was based on his review of 70 patient charts from NHS. In his report, dated August 30, 2013, Dr. Gysler opined in part as follows:

Review of the information provided raises great concern regarding Dr. Jackiewicz’s practice.

The recorded increase in complications is unacceptable in my opinion. Review of the material raises serious questions about the quality of care provided by Dr. Jackiewicz and his competency with preoperative assessments, accuracy in diagnosis and intraoperative care. Post-operative care is virtually absent. On initial review one could ask if this is only an issue of documentation, but in reviewing both the abstracted data and 70 records in great detail, I conclude that Dr. Jackiewicz does not recognize the hospitals’ standard of practice or just does not know about his responsibilities as a surgeon or physician. The stark contrast in care and documentation provided by his colleagues would indicate that he ought to know better and that the organization and medical staff at [NHS] are practicing at the standard expected in Ontario. This review would indicate that continuation of this practice presents a major risk to patients and the organization.

Similarly, Dr. Zaltz had been retained by NHS to review Dr. Jackiewicz’s standard of care with respect to gynaecologic surgery. In his report, dated November 4, 2013, Dr. Zaltz indicated that he reviewed 71 charts, wherein 18 had complications (a rate of 25%) – 11 of which were potentially avoidable and at least 6 were life threatening. Dr. Zaltz opined, in part, as follows:

Based on my review of these charts, I believe that Dr. Jackiewicz has the pre-requisite surgical skills to handle the cases he has undertaken. In many cases, the patients had uncomplicated procedures and were discharged in one day.

However, there were 7 cases that needed to go back to the operating room for the management of bleeding complications. Given that Dr. Jackiewicz has very rapid OR times, it is my opinion that the speed of his surgery appears to have led to a failure to insure that all bleeding was appropriately dealt with prior to the conclusion of the case. A careful and attentive surgeon will spend time checking and rechecking for bleeding at the end of the case. This necessarily adds time to every operation. Under one hour times for an LAVH would not allow for this.

I have listed eight cases where the indication for surgery and/or the procedures chosen were questionable.

...

I am left with the impression that Dr. Jackiewicz favors a surgical approach for menstrual problems as a primary choice, as opposed to a rigorous trial of non-surgical alternatives. This is supported by the lack of pathology in many of the uteri removed and questionable management of other cases. Many patients having hysterectomies were very young.

In some of the more complicated cases, where there were extensive pelvic adhesions, having a bowel or bladder injury is not uncommon and he did seek the appropriate consultation. There was one unrecognized cystotomy, found at the work-up of a vascular complication that required only catheter management. The other unrecognized bowel injury is the index case. In this case, there was extensive adhesiolysis around the bowel which likely led to the complication. It was not recognized intraoperatively and the patient presented a week later in septic shock.

On December 31, 2013, Dr. Jackiewicz provided comments to Dr. Gysler and Dr. Zaltz in response to their respective reports.

On January 17, 2014, Dr. Hope wrote to the College to advise that Dr. Jackiewicz's gynaecological privileges had been suspended, effective immediately, pending a special meeting of the NHS's Medical Advisory Committee ("MAC").

On or about January 18, 2014, Dr. Jackiewicz delivered the expert report of Dr. William Mundle to the MAC. Dr. Mundle had reviewed the surgical history of Dr. Jackiewicz, along with the reports of Dr. Gysler and Dr. Zaltz, Dr. Jackiewicz's responses to each of those reports, as well as a collection of charts. Dr. Mundle's opinion was supportive of Dr. Jackiewicz's surgical practice.

A special meeting of the MAC was held on January 30, 2014 to consider the status of Dr. Jackiewicz's gynaecological surgical practice. After hearing submissions by Dr. Jackiewicz, the MAC upheld the suspension of Dr. Jackiewicz's gynaecological privileges and formulated a set of recommendations that had to be completed prior to any reinstatement of his privileges. The recommendations included, among other

things, a restriction on Dr. Jackiewicz's surgical procedures to one particular NHS site, the requirement for a second surgical opinion prior to scheduling major procedures and a mentorship arrangement with Dr. Joshua Polsky, who would act as a surgical assistant for all major procedures and would conduct pre- and post-surgical mentoring sessions with Dr. Jackiewicz.

Following the release of the MAC's recommendations, Dr. Jackiewicz requested a hearing before the Board of Directors of NHS ("Board"). The six-day hearing took place in May 2014. During the hearing, Dr. Jackiewicz presented evidence to the Board including the report by Dr. William Mundle. On June 9, 2014, the Board issued its decision to accept the recommendations of the MAC and to uphold the restrictions on Dr. Jackiewicz's hospital privileges.

In January 2015, Dr. Jackiewicz notified the College that he would not be renewing his surgical privileges. In response, the ICRC directed Dr. Jackiewicz to enter into an undertaking reflecting the restriction of his practice to office-based obstetrical/gynaecological practice. In May 2015, the College was further advised that Dr. Jackiewicz would not sign the undertaking, and would be applying to the College for a change in his scope of practice in respect of hyperbaric medicine.

At the College's request, Dr. Tom Stewart, Chief of Staff at NHS, provided an update in June 2015 with respect to Dr. Jackiewicz. Dr. Stewart advised that, as directed by the MAC and adopted by the Board, Dr. Joshua Polsky had acted as Dr. Jackiewicz's Mentor for the purpose of supervising a specified number and type of gynaecological surgical procedures. Dr. Polsky had submitted reports to NHS in July, October and December 2014 corresponding to three separate occasions in which he supervised Dr. Jackiewicz in the operating room.

In his third report, dated December 20, 2014, Dr. Polsky opined as follows:

In summary, Dr. Jackiewicz lacks the requisite skill to perform simple laparoscopic procedures, let alone more complicated cases. His techniques are out-dated and dangerous. He has done nothing to improve his skills. By his own admission, he has not attended a CME on laparoscopic surgery in years. His over confidence in his abilities leads to inappropriate case selection and unsafe intraoperative techniques.

In my opinion the three sessions are a representative sample of operative cases that allow me to make my assessment. In accordance with the MAC directive, I have evaluated Dr. Jackiewicz's selection criteria for surgical cases and his operative technique and I find them both deficient. It is for these reasons that I must resign the mentorship of Dr. Jackiewicz.

Dr. Stewart further advised in his June 26, 2015 letter that Dr. Jackiewicz had given an undertaking not to exercise his NHS privileges at that time.

In October 2015, Dr. Stewart advised the College that the MAC had considered an application for reappointment by Dr. Jackiewicz at a special meeting held on August 18, 2015. The MAC recommended that the Board deny his application for re-appointment on the basis that Dr. Jackiewicz did not meet the criteria for re-appointment; specifically, a demonstrated ability to provide patient care at an appropriate level of quality and efficiency.

With the intention of relying on the independent reports prepared for NHS, the College retained Drs. Gysler and Zaltz in June 2015 and November 2015, respectively. The College also retained Dr. Polsky to opine on Dr. Jackiewicz's standard of care with respect to the surgical procedures he observed while acting as his Mentor in 2014. On June 27, 2016, the College received Dr. Polsky's report regarding the nine surgical procedures that he had observed and discussed with Dr. Jackiewicz. Dr. Polsky opined that in all of the cases reviewed, Dr. Jackiewicz fell below the standard of care and that, due to his lack of knowledge, judgment and ability, Dr. Jackiewicz placed patients at undue risk and potential harm. Dr. Polsky stated:

As stated previously in this report, Dr. Jackiewicz's patient positioning and trocar placement techniques are antiquated. There were instances where I told him how I perform my cases in my centre, and the visualization techniques that I teach the residents. Dr. Jackiewicz ignored all my suggestions and offers to display and teach the techniques. During one of our OR change overs, I asked if he had been to a CME event for laparoscopy recently. He stated that it was all the same people giving the same talks about things that he already knew. In further discussions about some of the professors that I had studied under at the University of Western Ontario and the University of Toronto, he stated that he taught them and that there was nothing that he needed to learn from them. It was at this time that I realized that Dr. Jackiewicz was not amenable to suggestion or recommendation. I am concerned that he will not alter any of his techniques or seek further CME in the future.

On or about July 15, 2016, Dr. Jackiewicz sent a letter to the College in response to the report of Dr. Polsky.

Care and Treatment of Patient A

In his letter of June 26, 2015, Dr. Stewart referred to the care and treatment provided by Dr. Jackiewicz to a patient on November 17, 2014. Patient A had experienced a perforation and excessive bleeding following an endometrial ablation. Shortly after the adverse event, NHS retained Dr. Zaltz to review the standard of care provided to Patient A. In his report, dated December 2, 2014, Dr. Zaltz concluded:

In summary, I have concerns about Dr. Jackiewicz's insight and judgement in managing this life threatening post-operative complication. The patient's care was guided by the nurses, anaesthesiologist and his colleague, rather than by the attending surgeon who wanted to proceed by

an approach that all others present agreed was not safe. In my discussion with Dr. Jackiewicz, I was surprised that even several weeks later he could not simply state, that in retrospect, LAVH was the wrong decision. Revisiting this repeatedly, he finally agreed that a laparoscopic approach was wrong and stated “maybe I was not quite aware of her condition”.

In my opinion, Dr. Jackiewicz demonstrated a complete lack of judgment when faced with this complication. Even at this point I cannot be confident that he has the insight to realize that he did not make the appropriate decisions in the management of this case. Thankfully for the patient, the team was able to override his decision. Therefore, Dr. Jackiewicz did not meet the standard of care required of a gynecologist in managing [Patient A]’s care.

As Dr. Jackiewicz was under the mentorship/supervision of Dr. Polsky at the time he performed the procedure on Patient A, Dr. Polsky was also asked by NHS to review the standard of care provided to Patient A pre-, intra- and post-operatively. In his report, dated May 8, 2015, Dr. Polsky concluded:

In summary there are two areas where Dr. Jackiewicz falls below the standard of practice in [Patient A’s] case. First, he did not properly evaluate the bleeding that occurred intraoperatively and rule out a perforation prior to placement of the Foley balloon. Second, he did not properly decide to abandon the laparoscopic approach to the exploration given [Patient A]’s clinical scenario and reluctantly proceeded to laparotomy only after debate with colleagues and co-workers.

In my opinion, Dr. Jackiewicz lacks the clinical judgment to evaluate the situation at hand, and he is also unable to make timely decisions to appropriately manage surgical cases in order to ensure patient safety. In addition, Dr. Jackiewicz does not have insight into his own surgical abilities and is unable to realize his limitations. These deficiencies would affect all surgical scenarios.

Other areas of concern include the evaluation and counseling of [Patient A] preoperatively, and Dr. Jackiewicz’s ability to respond to pages promptly. Ultrasound results can affect the risks and benefit profile of the procedures offered. If large fibroids are found, then the option of an endometrial resection may not be appropriate. There is also possibility that [Patient A]’s counseling on her surgical options and the surgical complications of an endometrial resection may have been deficient. By the incident reports, Dr. Jackiewicz needed to be paged three times in order to have him arrive at the PARR. Any delay in response, may result in further complications.

Registrar's Investigation Arising from Information Received from Dr. Amie Cullimore

On October 1, 2015, the College received information regarding Dr. Jackiewicz from Dr. Amie Cullimore of the Department of Obstetrics and Gynecology at St. Joseph's Healthcare in Hamilton. The letter outlined her concerns of substandard care provided to a patient by Dr. Jackiewicz.

On the basis of this information, the ICRC approved the appointment of investigators under section 75(1)(a) of the Code in order to conduct a broader investigation into Dr. Jackiewicz's office practice.

The College retained Dr. Andrew Browning to opine on Dr. Jackiewicz's care and treatment of patients. Dr. Browning reviewed 25 charts, observed Dr. Jackiewicz in his office on March 21, 2016, and interviewed Dr. Jackiewicz on June 17, 2016. Dr. Browning opined that Dr. Jackiewicz's care and treatment in 10 of 25 patient charts fell below the standard of practice of the profession and displayed a lack of judgment which exposed those patients to harm. Dr. Browning stated, in part:

Interactions with Dr. Jackiewicz provided the impression that he feels he does not need to follow guidelines because he thinks he knows best. When not following the guidelines and preferred treatment modalities, Dr. Jackiewicz does not document any explanation for the deviation. When he does not use a preferred treatment for CIN3 there was no documentation that the patient was aware they were receiving the non-preferred treatment and there was no documentation that the preferred treatment was offered in the form of a referral to a colposcopist who performs excisional procedures.

In several cases there appeared to be a trend to perform cryotherapy to the cervix when the procedure was not indicated based on December of 2012 SOGC guidelines. Dr. Jackiewicz's attitude at the interview appeared to be that he felt the procedure was "harmless" hence it is justified. Like most procedures in medicine, cryotherapy to the cervix can have complications, can as well be quite uncomfortable and it can alter the anatomy of the cervix. Cryotherapy should not be performed on women unless it is clearly indicated.

In a couple of cases Dr. Jackiewicz did not sample the endometrium in women over the age of 40 with abnormal bleeding. There was no explanation for the omission of this important test to rule out endometrial pathology. Similarly, there was no real understandable explanation for how an abnormal lab test was reviewed and dealt with. Dr. Jackiewicz suggested that it was "all on the computer", but a reviewer of the chart had no means of confirming appropriate treatment secondary to the documentation provided.

Dr. Browning also indicated that after reviewing the 25 charts, he could not find evidence of a case where a treatment option was mentioned that involved a referral to a gynaecologist with surgical privileges that Dr. Jackiewicz did not have. Dr. Browning stated:

When I asked Dr. Jackiewicz what he did with cases where patients requested or required surgical management that he could not provide, the answer was concerning. It implied that no one could do the things he did, i.e. for example “endometrial resection” and “difficult hysterectomies”. It also implied that he was hesitant to refer patients to other gynecologists in his region and hence sometimes he just referred them “to Toronto”.

Dr. Browning requested and reviewed further charts of the last five cases that Dr. Jackiewicz referred to other gynaecologists for possible surgical intervention. In reviewing the cases received, Dr. Browning noted:

... one of them was referred after he would have received the College request. The other four cases did have scenarios where patients were referred to the same gynecologist in all four cases. The last referral forwarded was in November of 2015 with no other cases forwarded until the one that occurred after the College letter went out. This would mean that from November of 2015 to May of 2016 (five months), Dr. Jackiewicz had no cases where the patient was referred to another gynecologist for consultation regarding surgical options that Dr. Jackiewicz could not perform in his office practice. When we discussed this surprising lack of cases that were referred to other gynecologists, Dr. Jackiewicz’s response was that he just did not have many cases that he needed to refer out. If this is the case, it would be helpful if Dr. Jackiewicz documented the treatment options that were discussed with applicable cases. As previously mentioned, there was very little evidence or documentation that the surgical options not offered by Dr. Jackiewicz, i.e. endometrial ablation for example, are being discussed as options for appropriate patients.

During Dr. Browning’s half day of direct observation, he also noted that in discussing treatment options with patients, Dr. Jackiewicz’s discussions did not involve explanations of procedures that Dr. Jackiewicz did not offer:

For example, endometrial ablation was not mentioned in cases of menorrhagia and diagnostic laparoscopy was not mentioned in cases of pelvic pain. When I asked Dr. Jackiewicz about this observation, he noted that he would discuss other surgical options at follow up visits if initial treatments did not work. At my day of observation, I did not witness patients being offered education on treatment modalities that Dr. Jackiewicz could not perform. In my opinion, patients need to be educated on all of their treatment options for their diagnoses. To not offer

and convey all reasonable treatment options would be a deviation from the standard of care.

On or about August 10, 2016, Dr. Jackiewicz sent a letter to the College in response to the report of Dr. Browning.

Dr. Browning reviewed Dr. Jackiewicz's response to his report and provided additional comments to the College. In his response, Dr. Browning did not change the conclusions reached in his initial report.

Interim Order

On December 8, 2016, after the referral to discipline was made, the ICRC ordered terms, conditions and limitations to be placed on Dr. Jackiewicz's certificate of registration.

Pursuant to the Order, Dr. Jackiewicz was required to obtain a clinical supervisor acceptable to the College by January 9, 2017 for his gynaecological office practice. As of January 9, 2017, Dr. Jackiewicz had not obtained a clinical supervisor acceptable to the College and, as such, he was required to cease practising medicine until he obtains a clinical supervisor.

Disposition

Dr. Jackiewicz did not renew his membership with the College in 2018. As a result, his certificate of registration expired on August 16, 2018. Dr. Jackiewicz entered into an Undertaking to the College on November 19, 2018, by which he agreed never to apply or re-apply for registration as a physician in Ontario or any other jurisdiction.

In light of the undertaking to not reapply, on December 5, 2018, the Discipline Committee ordered and directed that:

- Dr. Jackiewicz attend before the panel to be reprimanded.
- Dr. Jackiewicz pay to the College costs in the amount of \$10,180.00, within thirty (30) days of the date of this Order.

2. Dr. J.D. Marcin

Name: Dr. Judi Dianne Marcin
Practice: Independent Practice
Practice Location: Woodstock
Hearing: Allegations - Contested
Penalty – Contested
Finding Decision Date: July 25, 2018
Penalty Decision Date: July 27, 2018
Written Decision Date: January 28, 2019

Allegations and Findings

- incompetence – **proven**
- found guilty of an offence relevant to suitability to practise – **proven**
- disgraceful, dishonourable or unprofessional conduct - **proven**
- conduct unbecoming a physician - **proven**
- failed to maintain the standard of practice of the profession - **proven**
- contravened a term, condition or limitation on her certificate of registration - **proven**

Dr. Marcin was a family physician and psychotherapist practising in Woodstock. The alleged misconduct occurred prior to July 7, 2016, when Dr. Marcin ceased to be a member of the College (the Discipline Committee ordered revocation of Dr. Marcin's certificate of registration in a 2016 hearing).

April 2014 Undertaking (Graduated Work Hours on Return to Practice)

In April 2014, Dr. Marcin signed an undertaking to the College which set out, among other matters, that she would resume her clinical practice gradually following a period when she had not been practising. It specified the maximum hours per day and the weekdays each week that she could work.

The College's compliance monitor's billing analysis showed that the number of hours that Dr. Marcin spent just in providing direct psychotherapy treatment exceeded the maximum she had agreed to for all clinical activity, starting in the third week following her return to practice and continuing on in the great majority of subsequent weeks. In weeks nine to 23, for example, Dr. Marcin exceeded the 30 hours permitted in every week but one. When her maximum was then increased to 40 hours per week, Dr. Marcin exceeded this limit in 68 of the next 79 weeks. In reviewing Dr. Marcin's appointment logs, the compliance monitor noted that Dr. Marcin had patients scheduled on the Tuesdays of weeks three and four following her return to practice. Dr. Marcin submitted claims for services on both Tuesdays and the second Thursday of weeks three and four, weekdays not permitted at that time by her undertaking. The Committee

accepted the evidence of the billing analysis, in Dr. Marcin's appointment logs and OHIP billings, the Committee found that Dr. Marcin exceeded the number of work hours permitted and worked on prohibited days of the week.

The Committee found that Dr. Marcin breached her April 2014 undertaking and contravened a term, condition or limitation on her certificate of registration. The Committee also found that Dr. Marcin engaged in disgraceful, dishonourable and unprofessional, by breaching the terms of her April 2014 undertaking and contravening a term, condition or limitation on her certificate of registration.

April 2015 Undertaking (Practice Restricted to Psychotherapy) and Registrar's Investigation

In her April 2015 undertaking to the College, Dr. Marcin committed to immediately cease practising family medicine and to restrict her practice to psychotherapy. She consented to this restriction being a term, condition, or limitation on her certificate. Dr. Marcin acknowledged in the undertaking that she had agreed in a prior undertaking to abide by the recommendations of her clinical supervisor and that her supervisor had recommended on March 5, 2015 that she cease to practise family medicine.

A Registrar's investigation was commenced after the College received a phone call from a pharmacist in February 2016. An expert in family medicine and psychotherapy retained by the College reviewed office charts and pharmacy information.

The Committee accepted the expert's opinion that Dr. Marcin practised family medicine outside the scope of psychotherapy after April 16, 2015. Dr. Marcin provided care that was family medicine outside the scope of psychotherapy to 29 of the 30 patients whose office charts were reviewed and five of the eight patients with only pharmacy records. Examples of the conditions that were not within the scope of psychotherapy included many acute and chronic conditions typical of family medicine. The Committee noted from the expert's report that within just five days of signing her undertaking, Dr. Marcin had prescribed medications to four patients for conditions that are in the scope of family medicine outside psychotherapy. Also, Dr. Marcin wrote letters to third parties on behalf of two patients, in which she identified herself as their primary or primary care physician and opined on matters that were not related to psychotherapy.

The Committee found that Dr. Marcin practised family medicine outside the scope of psychotherapy after her April 2015 undertaking to the College and therefore, breached the terms of her undertaking and contravened a term, condition or limitation on her certificate of registration.

Failed to Maintain the Standard of Practice of the Profession and Incompetence – Family Medicine

The expert found no proper history or examination in 28 of the 29 office charts of patients who Dr. Marcin was treating for family medicine conditions outside the scope of psychotherapy. In the expert's opinion, in this pervasive lack of documentation, Dr. Marcin failed to maintain the standard of practice of the profession and showed a lack of judgment.

The expert opined that Dr. Marcin also failed to meet the standard of practice of the profession in her prescribing of lansoprazole, a type of medication used in the treatment of heartburn, reflux and stomach ulcers, by prescribing it at unnecessarily high doses, higher than recommended, without justification in three of four patients. The Committee accepted the expert's opinion. The patients were thereby exposed to an increased risk of significant side effects. Relevant history and examination were absent from all four patient charts

Further, the expert opined about a concern conveyed in writing by a pharmacist to Dr. Marcin about her prescribing for Patient X, specifically what the pharmacist viewed as a complex regimen of multiple medications in a patient who had difficulty with remembering and concentrating. The expert indicated that the absence of any response by Dr. Marcin or change in her prescribing demonstrated a lack of judgment and was a failure to meet the standard of practice. It is a professional expectation that physicians communicate and collaborate respectfully with others involved in the provision of health care in order that patients receive safe and effective care. The Committee found that Dr. Marcin did not meet this expectation in her conduct relating to the concerns of Patient X's pharmacist.

The Committee found that Dr. Marcin failed to maintain the standard of practice of the profession in family medicine by her pervasive failure to adequately document clinical evaluations, her improper prescribing of lansoprazole and her failure to communicate and collaborate appropriately with another health care professional.

The Committee found that Dr. Marcin showed a consistent lack of judgment and consistently failed to maintain the standard of practice in her family medicine practice, exposing her patients to the risk of harm or injury. The Committee was struck by the pervasiveness, magnitude, and persisting nature of these deficiencies. Also, in Dr. Marcin's seriously flawed judgment, she thought it was acceptable to continue to practise family medicine almost immediately after signing the undertaking that she would cease doing so. The Committee found that Dr. Marcin's lack of judgement is such that she is incompetent in family medicine.

Failed to Maintain the Standard of Practice of the Profession and Incompetence – Prescribing Antidepressants

The expert reviewed 30 office charts and the pharmacy records for eight additional patients. The expert identified concerns with Dr. Marcin's prescribing of antidepressants in eight patients in total, six from among the office charts and two for whom there were only pharmacy records. Specifically, she observed that Dr. Marcin had prescribed antidepressants at very high doses and/or in combinations in these patients that exposed them to increased risk of side effects including the potentially fatal serotonin syndrome. The Committee found that Dr. Marcin failed to maintain the standard of practice of the profession and displayed a lack of judgment in her prescribing of antidepressants.

The Committee stated that the deficiencies in Dr. Marcin's antidepressant prescribing were not isolated. Deficiencies were identified in eight of the 38 patients reviewed. Although the Committee heard no evidence of actual harm to patient, Dr. Marcin exposed her patients to increased risk, including serious and potentially fatal side effects. The Committee found that Dr. Marcin's lack of judgment such that she is incompetent in her prescribing of antidepressants.

Disgraceful, Dishonourable or Unprofessional Conduct

The Committee stated that Dr. Marcin demonstrated serious and persistent disregard of her professional obligations by resuming family practice almost immediately after giving her undertaking to the College to cease that practice. Further, Dr. Marcin ignored her practice restriction and misrepresented herself in letters to third parties on behalf of two patients on matters not related to psychotherapy. The Committee found serious deficiencies in Dr. Marcin's clinical care, deficiencies which have involved a significant number of patients over an extended period of time and that have exposed patients to unnecessary risk of harm. Dr. Marcin's conduct falls far outside the legitimate exercise of professional judgment or errors in judgment and clearly reflects a serious and persistent disregard for professional values and obligations. The Committee found that Dr. Marcin's conduct as outlined constituted disgraceful, dishonourable or unprofessional conduct.

Disgraceful, Dishonourable or Unprofessional Conduct and Failing to Maintain the Standard of Practice of the Profession – Providing Care to Family Members

Patients Z and Y were two of Dr. Marcin's family members. There were no office charts for either. Based on a review of the pharmacy records, the expert concluded that Dr. Marcin was practising family medicine in prescribing multiple medications for her two family members over an extended period of time for a 'multitude of conditions' that were not minor and that did not involve emergencies. Moreover, many were chronic conditions that required ongoing care. The College's policy prohibits more than

incidental or emergency treatment of family members or others with whom the physician has a close, personal relationship. Dr. Marcin's care for her two family members met none of the criteria for an exception to the policy.

The Committee found that Dr. Marcin provided ongoing care for family members was contrary to College policy. Also, her violation of the policy was compounded by the fact that she provided care within a scope of practice from which she was prohibited, and she maintained no proper clinical records. The Committee found that by so doing, Dr. Marcin engaged in disgraceful, dishonourable or unprofessional conduct

The Committee found that Dr. Marcin failed to maintain the standard of practice of the profession in her prescribing for her two family members, failing to keep proper records of their care, and willfully contravening College policy on providing care for family members.

Guilty of an Offence relevant to Suitability to Practise, Conduct Unbecoming a Physician, Disgraceful, Dishonourable or Unprofessional Conduct - 2016 Conviction for Failing to Comply with a Probation Order

The Committee found that Dr. Marcin has been found guilty of an offence relevant to her suitability to practice. Dr. Marcin was convicted on May 19, 2016 of failing to comply with the terms of a probation order, by failing to pay restitution in the amount of \$100,356.60, related to a prior conviction in 2012 of defrauding OHIP. This offence was viewed as a serious one by the court, which sentenced her to 21 days in jail, 12 months' probation and payment of the balance of the restitution, \$97,856.60. Dr. Marcin's conduct in failing to comply with the court's order to make restitution for her OHIP fraud reflects a serious disregard of professional values and obligations. The Committee found that Dr. Marcin's conduct in this regard also constituted conduct unbecoming a physician, as it reflects negatively on the reputation of the profession as a whole. Further, it constitutes conduct or an act or omission that is relevant to the practice of medicine and would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Disgraceful, Dishonourable or Unprofessional Conduct - Patient A

Dr. Marcin provided psychotherapy services to Patient A between 2012 and 2016. The Committee found that Dr. Marcin asked her about her financial situation when she first became her patient, shortly after Patient A's husband had died. Patient A was seeking help for stress and depression. Dr. Marcin asked Patient A for money to pay a bill and Patient A gave her \$1,000.00. In February 2016, Dr. Marcin again told Patient A that she needed money and asked for \$40,000.00. Patient A cashed in some of her savings and gave Dr. Marcin \$32,000.00 as a loan. Dr. Marcin wrote out a receipt and repayment schedule when Patient A insisted. Later, when Dr. Marcin came to Patient A's house, Patient A asked Dr. Marcin about repayment of the loan. In response, Dr.

Marcin told her she needed more money and asked Patient A for \$125,000.00. Dr. Marcin said to her, “You’re mean” when she refused. Patient A testified that she has never received any repayment, despite retaining a lawyer who wrote to Dr. Marcin.

The Committee found that Patient A was a vulnerable patient, whom Dr. Marcin took advantage of almost from the time she first became her patient. Dr. Marcin took little account of Patient A’s interests, allowed her own personal needs to dominate their relationship, and repeatedly grossly violated professional boundaries. Dr. Marcin’s telling Patient A that she was ‘mean’ when Patient A refused to give her even more money was a further reflection of Dr. Marcin’s profound disregard for even basic professional values and obligations.

Disposition

On July 27, 2018, the Discipline Committee ordered that:

- the Registrar revoke Judi Dianne Marcin’s certificate of registration effective immediately.
- Judi Dianne Marcin appear before the panel to be reprimanded.
- Judi Dianne Marcin pay to the College its costs of this proceeding in the amount of \$30,540.00 within thirty (30) days from the date this Order becomes final.

3. Dr. J.S.B. Martin

Name:	Dr. James Scott Bradley Martin
Practice:	Obstetrics and Gynaecology
Practice Location:	London
Hearing:	Agreed Statement of Facts and Admission Penalty – Joint Submission
Finding/Penalty Decision Date:	September 25, 2018
Written Decision Date:	November 23, 2018

Allegations and Findings

- incompetence - **proven**
- failed to maintain the standard of practice of the profession - **proven**

Dr. Martin is an obstetrician-gynecologist who received his certificate of registration authorizing independent practice in June 1977.

Patient A

The College commenced investigation after being contacted in 2016 by staff in the Ministry of Health and Long-Term Care with inquiries regarding Dr. Martin's prior approval application for an adolescent female-to-male transgender patient (Patient A)

seeking sex reassignment surgery (a mastectomy). At the time the investigation began, Dr. Martin described his practice as focused on transgender care and hormone replacement therapy. He indicated that he saw approximately thirty patients a week, spending fifteen hours a week in direct patient contact.

The College retained an expert, a pediatrician and adolescent medicine specialist, to review Dr. Martin's care of Patient A. The expert's report was received on July 11, 2017. The expert found, among other things, that:

- Dr. Martin did not meet the standard of practice of the profession regarding care for adolescents with gender dysphoria in his care of Patient A;
- Dr. Martin prescribed cross-sex hormones to Patient A, an adolescent, at their first visit. Cross-sex hormones have many side effects, including infertility, and more time is necessary to process this information so that adolescents can make an informed decision. Dr. Martin lacked judgment in this regard;
- Dr. Martin lacked judgment regarding determination of mental health needs and supports. The mental health portions of the patient chart were limited, and he did not specifically address common mental health diagnoses that co-occur with gender dysphoria in adolescents, such as depression and anxiety. There was no mental health assessment before initiating cross-sex hormones;
- Dr. Martin's conduct could expose patients to harm or injury, based on his prescribing cross-sex hormones to a young patient at the first visit with minimal mental health history-taking and the lack of assurance that the patient has sought and is accessing appropriate mental health resources and supports.

The expert provided an addendum to his report, in which he advised that his opinion had not been affected after reviewing a response submitted by Dr. Martin. Dr. Martin failed to maintain the standard of practice of the profession and was incompetent in his care of Patient A.

Patient B

In 2016, a relative complained to the College about Dr. Martin's treatment of Patient B, an adolescent male-to-female transgender patient. The complainant voiced concerns that Dr. Martin had prescribed hormone replacement therapy and was prepared to approve sex reassignment surgery without a mental health assessment.

College expert reviewed the patient's care and provided a report on July 11, 2017. Among other things, the expert found that:

- Dr. Martin did not meet the standard of practice of the profession regarding care for adolescents with gender dysphoria in his care of Patient B;
- Dr. Martin prescribed cross-sex hormones to Patient B, an adolescent, at their first visit. Cross-sex hormones have many side effects, including infertility. More time is necessary to process the information regarding side effects so that adolescents

can make an informed decision. Dr. Martin lacked judgment in this regard. The short length of the first consultation (described by Dr. Martin as thirty minutes), at which cross-sex hormones were prescribed, was also concerning, given the time required for an informed consent discussion to take place;

- Dr. Martin lacked judgment regarding determination of mental health needs and supports. The mental health portions of the patient chart were limited and the notes were similar from visit to visit. Dr. Martin did not specifically address common mental health diagnoses that co-occur with gender dysphoria in adolescents, such as depression and anxiety. There was no mental health assessment before initiating cross-sex hormones;
- Dr. Martin's conduct exposed patients to harm or injury, based primarily on Dr. Martin's initiation of cross-sex hormones at the first visit, as well as Dr. Martin's lack of understanding regarding the need to assess an adolescent patient's mental health.

Dr. Martin failed to maintain the standard of practice of the profession and was incompetent in his care of Patient B.

Dr. Martin's Discipline History

On June 9, 2014, the Discipline Committee found that Dr. Martin failed to maintain the standard of practice of the profession in his fertility practice and directed the Registrar, among other things, to suspend his certificate of registration for a period of two months and restrict his practice to reproductive endocrinology and the interpretation of fertility-related ultrasound images. Dr. Martin admitted that he provided an excessive number of intrauterine insemination ("IUI") treatment cycles in some cases, delaying patients from moving on to more effective treatment options. He also, among other things, failed to document important discussions regarding patients' treatment options that he claimed took place, including about patients choosing to continue with IUI rather than try other interventions.

Dr. Martin's Inquiries, Complaints and Reports Committee (the "ICRC") History

On April 11, 2014, in response to a complaint from a patient, the ICRC cautioned Dr. Martin regarding improper OHIP billing and advised him regarding the adequacy of his record-keeping and documentation with patients who exceed six IUI procedures.

On August 15, 2014, in response to a complaint from a couple regarding infertility treatment as well as communications with Dr. Martin and his staff, the ICRC cautioned Dr. Martin to ensure that he responded promptly to communications from the College about complaints, and advised him regarding documentation, to ensure that he fully documents patient interactions.

On June 10, 2016, the ICRC considered investigations into three complaints from families of transgender patients. As a result, the ICRC required Dr. Martin to attend in

person for cautions. The complaints also grounded a broader investigation into Dr. Martin's hormone and transgender practice. The ICRC required Dr. Martin to complete a specified continuing education or remediation program ("SCERP") regarding transgender care, including moderate clinical supervision and a reassessment.

Clinical Supervision

As required by the SCERP ordered by the ICRC in June 2016, Dr. Martin retained a clinical supervisor for transgender care. The Clinical Supervisor provided reports and identified areas for improvement with respect to Dr. Martin's failure to adequately canvas and document mental health issues and history, and his practice of initiating hormone therapy during initial visits, sometimes before appropriate examinations (such as baseline blood testing) had been completed and acted upon. During the course of the clinical supervision, the Clinical Supervisor documented that Dr. Martin made improvements to these aspects of his practice. At the conclusion of the clinical supervision, the Clinical Supervisor stated that he had no major concerns, but continued to identify areas for improvement.

Dr. Martin's Status Pending the Discipline Hearing

On August 22, 2017, the ICRC made an interim order, which required, among other things, that Dr. Martin refrain from providing transgender care to any new patients under the age of eighteen, and that he practise under clinical supervision in providing transgender care to existing patients under the age of eighteen. Dr. Martin subsequently advised the College that he had chosen not to obtain a clinical supervisor. Accordingly, as of September 23, 2017, under the terms of the order Dr. Martin was required to cease providing transgender care to patients under the age of eighteen.

As of August 16, 2018, Dr. Martin permitted his certificate of registration to expire.

Dr. Martin's Undertaking

Dr. Martin entered into an undertaking, by which, among other things, he has undertaken to resign his certificate of registration and not to apply or re-apply for registration as a physician to practise medicine in Ontario or any other jurisdiction.

Disposition

On September 25, 2018, the Discipline Committee ordered and directed that:

- Dr. Martin appear before the panel to be reprimanded.
- Dr. Martin pay to the College its costs of this proceeding in the amount of \$6,000.00 within sixty (60) days from the date of this Order.

Failed to Maintain the Standard of Practice of the Profession – 3 cases

1. Dr. A.M. Alexander

Name:	Dr. Alexander Michael Alexander
Practice:	Independent Practice
Practice Location:	Toronto
Hearing:	Agreed Statement of Facts and Admission Penalty – Joint Submission
Finding/Penalty Decision Date:	September 25, 2018
Written Decision Date:	November 22, 2018

Allegations and Findings

- failed to maintain the standard of practice of the profession - **proven**
- disgraceful, dishonourable or unprofessional conduct - **proven**
- incompetence - **withdrawn**

Practice Assessment and Undertaking

In 2013, Dr. Alexander underwent an assessment of his practice by a College-appointed assessor, who identified concerns with Dr. Alexander's practice, including his approach to chronic disease management, his conduct of physical examinations, his infection control techniques, his prescribing, his record-keeping, and his communication with consultants. As a result of the assessment, Dr. Alexander entered into an undertaking with the College on January 10, 2014, wherein he agreed, among other things, to engage a supervisor acceptable to the College, to participate in and successfully complete an educational plan and any additional professional education recommended by his supervisor, and to undergo a practice reassessment within six months after the completion of the clinical supervision. Dr. Alexander completed the clinical supervision as required by his undertaking.

Failure to Maintain the Standard of Practice of the Profession

The College retained an expert to perform the reassessment of Dr. Alexander's practice required by his 2014 undertaking. The expert's review focused on care provided from April 2015 onwards, and involved review of fifteen patient charts and observation of professional encounters with six other patients. The expert reported on January 19, 2017 that Dr. Alexander failed to maintain the standard of practice of the profession and observed that Dr. Alexander:

- Took limited patient histories;

- Performed physical examinations that were not tailored to the patient's presenting problems and/or were performed incorrectly;
- Did not consistently document physical examinations;
- Performed assessments that were lacking;
- Developed treatment plans that were lacking or absent;
- Failed to take appropriate steps to manage infection control; and
- Provided only monthly prescriptions to patients on chronic medication, requiring them to return frequently and unnecessarily to the office.

The following was noted with respect to Dr. Alexander's care of two patients (patients A and B):

- Patient A: while Dr. Alexander did not fail to maintain the standard of practice of the profession by failing to acknowledge a fracture shown by an x-ray (as the patient was being followed by an orthopedist and Dr. Alexander did not order the x-ray), or by referring the patient to a dermatologist for a diagnosis of vitiligo, he otherwise failed to maintain the standard of practice of the profession regarding patient A.
- Patient B: while Dr. Alexander did not fail to meet the standard of the profession by failing to order an x-ray and ultrasound of the shoulder, he otherwise failed to maintain the standard of practice of the profession regarding patient B.

Disgraceful, Dishonourable or Unprofessional Conduct

In the course of communicating with the College regarding the cases reviewed by the College's expert, Dr. Alexander, through his counsel, forwarded to the College a copy of a patient agreement for opioid therapy pertaining to Patient C. Dr. Alexander's counsel advised that this agreement was signed in 2009. However, the agreement had a copyright date of 2011 on it from the pharmaceutical company and referred to the 2010 Canadian Guideline ("Guideline") for Safe and Effective Use of Opioids for Chronic Non-Cancer Pain.

The College obtained three complete patient charts in respect of patients C, D, and E, all of whom were patients whose care was reviewed by the College's expert. Each patient's chart contained a signed agreement for opioid therapy. Despite the fact that all three agreements contained a 2011 copyright date and references to the Guideline, the agreement for opioid therapy for each of the three patients was dated before 2011, as follows: Patient D's agreement was dated November 21, 2009; Patient E's agreement was dated February 27, 2008, and Patient C's agreement was dated April 11, 1996.

Dr. Alexander backdated each of the three patient agreements for opioid therapy, which constituted disgraceful, dishonourable or unprofessional conduct. It was misleading that Dr. Alexander provided Patient C's agreement to the College asserting that it had been signed in 2009, while it was dated 1996 and signed at some time during or after 2011. Dr. Alexander advised College investigator that he could not identify when any of the agreements were signed, but that it would have been in or after 2011 and many years

after they were dated. Dr. Alexander further stated that he backdated the agreements to reflect approximately when he would have first started prescribing narcotics to the patient, and their initial dosage. He said that this is not his current practice, but represents something that he did in the past.

Dr. Alexander's Discipline History

Dr. Alexander has been the subject of two prior findings by the Discipline Committee of the College:

- In June 1991, the Discipline Committee found that Dr. Alexander engaged in disgraceful, dishonourable or unprofessional conduct by failing to report an incident of abuse to the Children's Aid Society. Dr. Alexander was reprimanded.
- In April 2012, the Discipline Committee found that Dr. Alexander failed to maintain the standard of practice of the profession in his care of twenty-eight patients. The Discipline Committee ordered that Dr. Alexander submit to an assessment of his practice and abide by the assessor's recommendations. It also ordered a reprimand and costs.

The 2013 assessment of Dr. Alexander's practice was conducted pursuant to the Discipline Committee's 2012 order.

Dr. Alexander's Complaints Committee and Inquiries, Complaints and Reports Committee (the "ICRC") History

In August 1995, the Complaints Committee required Dr. Alexander to attend in person for a caution regarding: the importance of proper wound management, including thorough cleansing, especially in animal bites where there is a high potential for infection; improper dosage of prescribed medication; the need for clear follow-up instructions; and, his basic knowledge of rabies management. The decision arose from a complaint about Dr. Alexander's care of a four-year old boy who had been bitten by a dog.

In January 1999, the Complaints Committee cautioned Dr. Alexander to consider the utility of a cardiogram when investigating undiagnosed abdominal and arm pain.

In April 2010, the ICRC required Dr. Alexander to attend in person for a caution regarding his premature destruction of patient records before the time period after which it is allowed by law.

In December 2014, the ICRC required Dr. Alexander to attend in person for a caution regarding filling out Special Diet Forms (and other medical forms) without properly investigating the patient's eligibility for the benefit.

Interim Undertaking and Subsequent Clinical Supervision

On May 24, 2017, Dr. Alexander entered into an interim undertaking, which was accepted by the ICRC in lieu of making an interim order. The undertaking has been in place pending the Discipline Committee's decision regarding the allegations against him. Among other things, it has required that Dr. Alexander practise under the guidance of a clinical supervisor, who must meet with him weekly to review ten to fifteen patient charts and must also observe no fewer than ten of his patient encounters for no less than one-half day per month.

As a result of his interim undertaking, Dr. Alexander has been practising under the clinical supervision. The Clinical Supervisor has made numerous recommendations for practice improvement to Dr. Alexander and has noted that Dr. Alexander has made improvements in many of the areas in issue. The Clinical Supervisor continues to make recommendations in some of these areas.

Dr. Alexander's Subsequent Education

Since the allegations of professional misconduct were referred to the Discipline Committee in 2017, Dr. Alexander has completed The University of Toronto Medical Record Keeping course, the 48th Annual Winter Refresher Course for Family Medicine at the University of Wisconsin, and the Endocrinology in Primary Care course offered by Medical Education Resources Inc.

Disposition

On September 25, 2018, the Discipline Committee ordered and directed that:

- the Registrar suspend Dr. Alexander's certificate of registration for a period of six (6) months, commencing at 12:01 a.m. on November 1, 2018.
- the Registrar to place the following terms, conditions and limitations on Dr. Alexander's certificate of registration:

Public Protection Prior to Suspension and Remediation

- Until the commencement of the period of suspension of his certificate of registration set out above, Dr. Alexander shall continue to be bound by the terms of the undertaking into which he entered on May 24, 2017;

Professional Education and Clinical Supervision

- Dr. Alexander shall participate in and successfully complete all aspects of the Individualized Education Plan ("IEP") attached to this Order as Schedule "A," including all of the following professional education:
 - Within six (6) months of the date of this Order, Dr. Alexander shall complete individualized instruction in medical ethics satisfactory to the College, with an instructor approved by the College. The instructor shall provide a summative report to the College including his or her conclusion about whether the instruction was completed successfully by Dr. Alexander;

- The period of Clinical Supervision described below; and
- Any additional professional education recommended by his Clinical Supervisor (defined below).
- For a period of twelve (12) months commencing on the date that he resumes practice following the suspension of his certificate of registration described above, Dr. Alexander may practise only under the guidance of a clinical supervisor or clinical supervisors (the "Clinical Supervisor") acceptable to the College, who has executed an undertaking in the form attached to the Order as Schedule "B." Dr. Alexander shall successfully complete his IEP under the guidance of his Clinical Supervisor. Dr. Alexander shall cooperate fully with the Clinical Supervision of his practice, which shall contain the following elements:
 - Dr. Alexander shall meet with his Clinical Supervisor at his Practice Location, or another location approved by the College, once every week for at least three (3) months. Thereafter, if recommended by the Clinical Supervisor and approved by the College, they may meet every two (2) weeks.
 - At every meeting, Dr. Alexander and his Clinical Supervisor shall review ten to fifteen (10-15) of his patient charts, which shall be selected by the Clinical Supervisor independently of Dr. Alexander's participation, on the basis of areas of concern identified in the assessor's report(s) received on January 19, 2017, the Discipline Committee's decision and reasons for decision in this matter, as well as any concerns that may arise during the period of Clinical Supervision or that have arisen during the prior period of Clinical Supervision under Dr. Alexander's interim undertaking entered into on May 24, 2017;
 - Once a month, the Clinical Supervisor shall observe no fewer than ten (10) of Dr. Alexander's patient encounters, for no less than one-half (1/2) a day;
 - The Clinical Supervisor shall discuss with Dr. Alexander any concerns arising from the observation of patient encounters and review of patient records, as well as provide recommendations to him, if any;
 - The Clinical Supervisor may perform any other duties, such as reviewing other documents or conducting interviews with staff, colleagues, or patients, that the Clinical Supervisor deems necessary to the Clinical Supervision;
 - The Clinical Supervisor shall submit written reports to the College at least once every month, or more frequently if the Clinical Supervisor has concerns about Dr. Alexander's standard of practice; and
 - Dr. Alexander shall abide by the recommendations of his Clinical Supervisor, including but not limited to any recommended practice improvements and ongoing professional development;
- If a Clinical Supervisor is unable or unwilling to continue to fulfill the terms of the Clinical Supervisor's undertaking as set out in Appendix "A" to the Order, Dr. Alexander shall, within twenty (20) days of receiving notice of the same,

deliver to the College an executed undertaking in the same form from a person who is acceptable to the College;

- If Dr. Alexander is unable to obtain a Clinical Supervisor in accordance with this Order, he shall cease to practise medicine until such time as he has done so, and the fact that he has ceased to practise medicine will be a term, condition, and limitation on his certificate of registration;
- Dr. Alexander shall consent to the disclosure by his Clinical Supervisor to the College, and by the College to his Clinical Supervisor, of all information the Clinical Supervisor or the College deems necessary or desirable in order to fulfill the Clinical Supervisor's undertaking and Dr. Alexander's compliance with this Order, as well as the monitoring thereof;

Practice Reassessment

- Approximately six (6) months after completion of the period of Clinical Supervision set out above, Dr. Alexander shall undergo a reassessment of his practice by a College-appointed assessor or assessors (the "Assessor"). The reassessment shall include direct observation by the Assessor of Dr. Alexander's patient encounters. The Assessor shall report the results of the reassessment to the College;
- Dr. Alexander shall consent to the disclosure to the Assessor of the reports of the Clinical Supervisor, and shall consent to the sharing of all information between the Clinical Supervisor, the Assessor, and the College, as the College deems necessary or desirable;

Practice Restrictions

- Dr. Alexander shall practise only in a practice setting that has been approved by the College;
- Dr. Alexander shall engage in professional encounters with no more than eight (8) patients every two (2) hours.
- Dr. Alexander shall engage in professional encounters with patients for no more than seven (7) hours per day;
- Dr. Alexander may engage in professional encounters with patients five (5) days per week, and one (1) additional day every second week;

Monitoring of Compliance

- Dr. Alexander shall cooperate with unannounced inspections of his practice and shall consent to monitoring by a College representative(s) of claims that he submits to the Ontario Health Insurance Plan ("OHIP"), for the purpose of monitoring and enforcing his compliance with the terms of this Order;
- Dr. Alexander shall keep a log of all patient encounters, in the form set out at Schedule "C" to the order, which will include at least the following information:
 - the date of the patient encounter, including the day of the week;
 - the name of the patient with the chart/file number, if any;
 - the start time of the patient encounter;
 - the end time of the patient encounter; and
 - Dr. Alexander's initials.

- Dr. Alexander shall submit the original log of patient encounters to the College on a monthly basis, and shall maintain his own copy of the log of patient encounters at all times, making it available to the College upon request;

Other

- Dr. Alexander shall be responsible for any and all costs associated with implementing this Order.
- Dr. Alexander appear before the panel to be reprimanded.
- Dr. Alexander pay the College its costs of this proceeding in the amount of \$6,000 within thirty (30) days of the date of this Order.

2. Dr. A.S. Gordon

Name:	Dr. Alan Selig Gordon
Practice:	Neurology
Practice Location:	Toronto
Hearing:	Allegations - Uncontested Penalty – Joint Submission
Finding/Penalty Decision Date:	October 12, 2018
Written Decision Date:	November 28, 2018

Allegations and Findings

- failed to maintain the standard of practice of the profession - **proven**
- disgraceful, dishonourable or unprofessional conduct – **proven**
- incompetence - **withdrawn**

Dr. Gordon is a physician who received his certificate of registration authorizing independent practice from the College of Physicians and Surgeons of Ontario in 1969. He holds Royal College of Physicians and Surgeons of Canada certification in neurology and practised at the Pain Management Centre at a Hospital in Toronto, until January 2018. Dr. Gordon has expertise in the evaluation and treatment of widespread pain, neuropathic pain, and pelvic and genital pain.

Patient A

Patient A suffers from a complex and painful nerve condition in her feet and fibromyalgia. She was referred to Dr. Gordon by her family physician for investigation of her nerve pain. When she presented at Dr. Gordon's office for an appointment her main concern was the pain in her feet. She was in her mid-thirties.

Prior to conducting a physical examination, Dr. Gordon reviewed Patient A's chart and inquired into her medical history. He noted, among other things, widespread pain, foot pain, and pain with intercourse. She also complained of cold allodynia. Dr. Gordon indicated that he wanted to do an examination and took Patient A to the examination

room across from his office. He left her alone to gown. Dr. Gordon did not offer or provide Patient A with a chaperone for the examination. When Dr. Gordon returned to the examination room, he began by testing Patient A's reflexes and did a strength assessment. He proceeded to conduct an examination with a cotton swab. Dr. Gordon ran the swab along Patient A's arms, legs and feet. Without asking and without an adequate explanation to Patient A, he slightly exposed Patient A's breast and touched it with the swab. He also tested various areas with a cold tuning fork (looking for cold allodynia) and a pointed object.

Dr. Gordon asked Patient A to stand and face the wall, and stood behind her. He examined various muscles for strength, tenderness and pain. Without asking and without an adequate explanation to Patient A, he pulled up the back of Patient A's hospital gown to expose her buttocks. He began touching various spots on her buttocks with the cotton swab, to test for tenderness. Patient A felt uncomfortable and "creeped out." Dr. Gordon asked Patient A to lie down on the bed to check for vulvar pain. He wondered if she had provoked vestibulodynia as a cause for her intercourse pain. Patient A felt uncomfortable. She has a history of sexual abuse. She attempted to avoid the exam by telling Dr. Gordon she had her period, but Dr. Gordon said he was fine to proceed if she agreed. She complied. She removed her underwear and lay down on the examination table. Dr. Gordon did not explain to Patient A why he wanted to examine her vagina or what he was about to do. Without an explanation adequate for Patient A, Dr. Gordon used a cotton swab to lightly touch various parts of Patient A's labia, including her internal labia and around where her tampon was. Patient A indicated that this did not hurt. The experience left Patient A feeling caught off guard and very upset. After the physical examination concluded, Dr. Gordon left Patient A to dress and returned to his office. Patient A dressed and joined him in his office.

Dr. Gordon felt that a small fibre sensory neuropathy could account for the foot pain. He asked if Patient A had ever experienced any emotional or physical trauma. Patient A did not understand how this was relevant to the assessment. She explained that she had been sexually abused as a child, but that she didn't remember the details. Dr. Gordon commented it was probably better she did not. Patient A reiterated that her main concern was the pain in her feet. He offered a variety of other evaluations, tests and treatments to her including psychological therapy, rhythmic sensory stimulation therapy, and a promise to explore virtual reality therapy. He wrote her doctor and copied Dr. Vera Brill for information on the small fibre testing. Patient A left the appointment with Dr. Gordon feeling extremely upset but made no mention of this to Dr. Gordon.

The next month, Patient A complained to the College regarding her experience with Dr. Gordon. An expert retained by the College to review the care provided to Patient A opined, in part, that:

- based on the information provided the patient was appropriately examined;
- the use of a cotton applicator to systematically search for mechanical allodynia is a routine part of the pain physical examination. It is routinely taught to Residents and other pain trainees;

- the use of a cotton applicator has particular importance in a patient with chronic pelvic pain, whether the patient has an isolated regional pain, or whether there is also a concurrent generalized pain disorder as was the case with Patient A;
- the use of a cotton applicator has been validated as a bedside provocative maneuver in chronic pelvic pain, to look for the presence of pain sensitization. It is relevant in assessment of patients who likely have neuropathic pain and also can be present in pelvic pains which have other mechanisms;
- whether for assessing pelvic pain or for assessing pain elsewhere such as in the feet, patients do not always understand why they would be examined in this peculiar manner with a cotton applicator, even in this instance where the patient presented with, using her own description, "allodynia";
- on examination it is common that the physician finds either greater or less mechanical allodynia than what might be anticipated based on the history, and often in a pattern of distribution different than what is expected. Thus, a systematic approach to the use of a cotton applicator during the physical examination of a chronic pain patient is standard practice in pain medicine.

However, the expert noted that a competent pain physician will directly ask the pain patient for consent to examine them and should be attuned to *ongoing consent*, for example:

- to alert the patient that an upcoming part of the exam might be uncomfortable;
- to ask for feedback about any discomfort that arises in the course of the exam;
- to ask again, "can I examine you *here* to look for tenderness?"

The expert further opined that:

It is unclear whether there was any breast exam performed. While the patient reported that Dr. Gordon "slightly exposed my breast, but not the nipple", Dr. Gordon's report indicates the patient described bilateral axillary pain. Exposing an area where there was a report of tenderness is standard practice in examining a pain patient, but there appears to have been miscommunication about what Dr. Gordon was going to do during the examination;

It is standard practice to directly inspect the back and buttocks, including the skin, when there is chronic pain in those regions. Scars from some forgotten major surgery, birth defects, muscle atrophy, evidence of spondylolisthesis or scoliosis, and many other serious contributing factors can often be discerned only by direct observation. It is clear from the consultation that Dr. Gordon was assessing for the presence of tender points. Examination of the buttocks by pressing specific areas where tender points are found is standard practice in the assessment of a pain patient who might have fibromyalgia.

The expert concluded that the care Dr. Gordon provided to the patient met the standard of practice of the profession, but that there was clearly miscommunication in that the patient did not understand why the physical examination of the axilla, buttocks and perineum was conducted.

An expert retained by Dr. Gordon to review the care he provided to Patient A, agreed with the College expert that the tests done were clinically indicated.

Dr. Gordon did not contest that he similarly did not provide adequate explanations to some other patients before proceeding with sensitive examinations and inquiries.

Interim Suspension Order and Undertaking to Resign

On January 26, 2018, the Inquiries, Complaints, and Reports Committee (“ICRC”) made an interim directing the Registrar to suspend Dr. Gordon’s certificate of registration. Dr. Gordon has not practiced since that Order took effect. Dr. Gordon has undertaken to resign his certificate of registration effective immediately and not to apply or re-apply for registration as a physician to practise medicine in Ontario or any other jurisdiction.

Disposition

On October 12, 2018, the Discipline Committee ordered and directed that:

- Dr. Gordon attend before the panel to be reprimanded.
- Dr. Gordon pay costs to the College in the amount of \$6,000 within thirty (30) days from the date of this Order.

3. Dr. M.E. Mrozek

Name:	Dr. Michal Edmund Mrozek
Practice:	Psychiatry
Practice Location:	Toronto
Hearing:	Allegations - Contested Penalty - Contested
Finding/Written Decision Date:	April 6, 2018
Penalty/Written Decision Date:	December 11, 2018

Allegations and Findings

- failed to maintain the standard of practice of the profession - **proven**
- disgraceful, dishonourable or unprofessional – **proven**
- incompetence - **withdrawn**

Dr. Mrozek is a psychiatrist practising in Toronto. He received his certificate of registration authorizing independent practice from the College of Physicians and Surgeons of Ontario in November 1972 and was certified as a specialist in psychiatry by the Royal College of Physicians and Surgeons of Canada in 1980. At the relevant times, Dr. Mrozek maintained an office practice in the community, as well as a practice seeing patients at a Hospital.

Failed to Maintain Standard of Practice

Patient A, a woman in her fifties, first saw Dr. Mrozek in 2007 at the Hospital. At that time, as far as Dr. Mrozek was aware, she had no prior psychiatric history. Thereafter, Dr. Mrozek saw Patient A as a patient from 2009 to 2013.

In May 2013, upon receipt of a complaint from a relative of Patient A about the care Dr. Mrozek provided to Patient A, the College retained a Medical Inspector to review Dr. Mrozek's care and treatment of Patient A. The Medical Inspector concluded that Dr. Mrozek had fallen below the standard of practice in his care of Patient A in the following respects:

- Dr. Mrozek had failed to recognize or elicit the symptoms of psychosis, particularly hallucinations, delusions and lack of insight into illness by Patient A, and did not attend with adequate care to the opinions of colleagues and information provided by family members;
- Dr. Mrozek did not use accepted, standard diagnostic descriptors in his documentation regarding Patient A; and
- Dr. Mrozek used sub-therapeutic doses of anti-psychotic medication in a form that was unlikely to be taken and discontinued treatment in an individual who was likely to relapse.

The Committee found that Dr. Mrozek committed an act of professional misconduct, in that he failed to maintain the standard of practice of the profession with respect to his care of Patient A.

Disgraceful, Dishonourable or Unprofessional Conduct

Failed to Cooperate with College Investigation

On May 24, 2012, the Registrar of the College appointed investigators to investigate Dr. Mrozek's practice. Dr. Mrozek was notified of the investigation on May 29, 2012. The College retained a Medical Inspector to review a number of patient records obtained from the Hospital and, later, to review the care Dr. Mrozek provided to Patient A in relation to the complaint made by her relative in May 2013. In the course of the College investigation, the investigator attempted to schedule an interview between the Medical Inspector and Dr. Mrozek.

Subsection 76(3.1) of the Health Professions Procedural Code states: "A member shall cooperate fully with an investigator." The Committee found that it was not necessary to issue a summons to Dr. Mrozek to have him attend a meeting with the investigator and the Medical Inspector. The Committee found that Dr. Mrozek's statutory duty "to cooperate fully" required him to attend a meeting with the investigator and the Medical Inspector, if requested, and respond to questions asked. Subsection 76(1.1) provides that, "An investigator may make reasonable inquiries of any person, including the

member who is the subject of the investigation, on matters relevant to the investigation.” That subsection stands alone without any requirement for a summons. In the context of the section 76 as a whole, including, subsection 76(1.1), the duty to co-operate fully in subsection 76(3.1) must include a duty to respond to the “reasonable inquiries” of an investigator, without having to be summonsed.

The Committee found that Dr. Mrozek was willfully non-compliant with the investigator’s requests to schedule the interview with the Medical Inspector. Dr. Mrozek did not respond to all correspondence in a timely fashion, cancelled scheduled appointments and attempted to impose unreasonable conditions on the interview including: repeatedly objecting to the interview being recorded; insisting that his colleague attend although the investigator repeatedly reminded him that, because of issues of confidentiality, no third party, other than legal counsel, was permitted to attend the interview; and demanding the investigator not attend the interview. Ultimately, Dr. Mrozek only participated in the interview when the investigator and Medical Inspector showed up at his office, 20 months after the first request for an interview was made.

The Committee found that Dr. Mrozek’s delay and attempt to frustrate and set parameters on the interview, in the face of twelve reminders of his duty to co-operate, constituted a breach of the duty to fully co-operate with the investigator. The Committee emphasized that public protection requires members to co-operate fully with the College’s investigation, including making efforts to meet with an investigator promptly upon request, so that the College can determine on a timely basis whether there are any patient safety concerns. The Committee found that Dr. Mrozek failed to cooperate fully with the College investigation was not a mere error of judgment, rather, rose to the level of professional misconduct in that he engaged in conduct or an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Accessing Patients’ Personal Health Records without Consent or Authorization

In March 2012, the Chief of Staff at the Hospital where Dr. Mrozek saw patients appointed a supervisor in respect of Dr. Mrozek’s practice. In November 2012, in response to a concern raised by the supervisor that Dr. Mrozek was not employing the DSM multi-axial recording formats for his diagnosis, Dr. Mrozek wrote a letter describing 11 charts (12 entries) where other psychiatrists also don’t use the multi-axial recording format in the DSM.

The Hospital conducted an audit to determine whether or not patient files referred to in Dr. Mrozek’s letter were accessed appropriately. According to the audit results, the charts listed in Dr. Mrozek’s letter of November 2012 were all accessed by someone using Dr. Mrozek’s credentials and there were other charts accessed beyond the ones that were listed in Dr. Mrozek’s letter, i.e., a total of 41 patient charts, involving 39 patients were accessed.

In response to the request from the Hospital's General Counsel regarding the potential privacy breach with respect to patient records that he accessed, Dr. Mrozek wrote a letter in May 2013, wherein he confirmed that he accessed the above patient records for the sole purpose of reviewing the psychiatric diagnosis recording formats as employed by his Department of Psychiatry colleagues in their charting. He emphasized in his letter that he did not access the patient records for any improper or illicit purpose, but rather did so for solely educational and informational reasons, so as to assist him in preparing his response to the supervision report regarding his practice. In that letter, Dr. Mrozek also stated that he believes that obtaining prior authorization to access those of the records that were outside of his circle of care would have prevented unnecessary concerns.

Based on Dr. Mrozek's statements in his correspondence of November 2012 and May 2013, the Committee found that he accessed records of patients outside his circle of care without obtaining prior consent or authorization and that the reason he accessed those records was to assist him in his dispute with the Hospital and not for education or research purposes. The Committee noted that although Dr. Mrozek did not access patient records for the purpose of investigating personal circumstances of the patients, it does not mean that the privacy of the patients was not violated. As a physician, and in particular as a psychiatrist, Dr. Mrozek should have appreciated the confidential nature of the documents. The Committee found that Dr. Mrozek engaged in conduct or an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Disposition

On December 11, 2018, the Discipline Committee ordered that:

- The Registrar suspend Dr. Mrozek's certificate of registration for a period of six (6) months, commencing immediately.
- The Registrar impose the following terms, conditions and limitations on Dr. Mrozek's certificate of registration:
 - Education in the Identification and Diagnosis of Psychosis
 - o Within nine (9) months of the date of this Order, and at his own expense, Dr. Mrozek shall participate in and successfully complete an educational course approved by the College, which includes instruction in identifying and diagnosing psychosis. Dr. Mrozek will provide proof of successful completion within two (2) weeks of completing the course.
 - Clinical Supervision
 - o Prior to resuming practice following the suspension of his Certificate of Registration described above in paragraph 1, Dr. Mrozek shall retain, at his own expense, a College-approved clinical supervisor to review Dr. Mrozek's practice, who will sign an undertaking in the form attached hereto as Schedule "A" (the "Clinical Supervisor");

- For a period of six (6) months commencing on the date Dr. Mrozek resumes practice following the suspension of his Certificate of Registration described above in paragraph 1, Dr. Mrozek may practise only under the terms of the clinical supervision set out herein and in "Schedule "A";
- Clinical supervision of Dr. Mrozek 's practice shall contain the following elements:
 - meeting with Dr. Mrozek on a monthly basis and reviewing a minimum of 20 (twenty), with charts to be selected at the sole discretion of the Clinical Supervisor;
 - the Clinical Supervisor will keep a log of all patient charts reviewed along with patient identifiers; and
 - the Clinical Supervisor will provide reports to the College every two (2) months for the six (6) month period of clinical supervision, or more frequently if the Clinical Supervisor has concerns about Dr. Mrozek's standard of practice or conduct.
- Dr. Mrozek shall abide by the recommendations of the Clinical Supervisor;
- If a Clinical Supervisor who has given an undertaking as set out in Schedule "A" to this Order is unable or unwilling to continue to fulfill its terms, Dr. Mrozek shall, within twenty (20) days of receiving notice of same, obtain an executed undertaking in the same form from a person who is acceptable to the College and ensure that it is delivered to the College within that time;
- If Dr. Mrozek is unable to obtain a Clinical Supervisor in accordance with this Order, he shall cease to practise until such time as he has done so;
- Dr. Mrozek shall consent to the disclosure by his Clinical Supervisor to the College, and by the College to his Clinical Supervisor, of all information the Clinical Supervisor or the College deems necessary or desirable in order to fulfill the Clinical Supervisor's undertaking and Dr. Mrozek' s compliance with this Order;

Re-Assessment

- Approximately twelve (12) months after the completion of the period of supervision as set out above, Dr. Mrozek shall undergo a re-assessment of his practice (the "Assessment") by a College-appointed assessor (the "Assessor(s)"). The Assessor(s) shall report the results of the Assessment to the College;
- The Assessment may include chart reviews, direct observation of Dr. Mrozek's care, interviews with colleagues and co-workers, feedback from patients and any other tools deemed necessary by the College. Dr. Mrozek shall abide by all recommendations made by the Assessor(s), and the results of the Assessment will be reported to the College and may form the basis of further action by the College;
- Dr. Mrozek shall consent to the disclosure to the Assessor(s) of the reports of the Clinical Supervisor arising from the supervision, and shall consent to the sharing of all information between the Clinical Supervisor, the Assessor(s) and the College, as the College deems necessary or desirable;

- Other
- Dr. Mrozek shall comply with the College's Policy on Practice Management Considerations for Physicians Who Cease to Practise, Take an Extended Leave of Absence or Close Their Practice Due to Relocation in respect of his period of suspension, a copy of which forms Schedule "B" to this Order.
- Dr. Mrozek shall submit to, and not interfere with, unannounced inspections of his practice location(s) and to any other activity the College deems necessary in order to monitor his compliance with the provisions of this Order.
- Dr. Mrozek shall inform the College of each and every location where he practises, in any jurisdiction (his "Practice Location(s)") within five (5) days of the date Dr. Mrozek resumes practice following the suspension of his Certificate of Registration described above in paragraph 1, and shall inform the College of any and all new Practice Locations within five (5) days of commencing practice at that location, until the report of the Assessment has been provided to the College.
- Dr. Mrozek shall consent to the College making appropriate enquiries of the Ontario Health Insurance Plan and/or any person who or institution that may have relevant information, in order for the College to monitor his compliance with this Order.
- Dr. Mrozek shall be responsible for any and all costs associated with implementing the terms of this Order.
- Dr. Mrozek appear before the panel to be reprimanded.
- Dr. Mrozek pay costs to the College in the amount of \$26,680 within 30 days of the date of this Order.

On December 19, 2018, Dr. Mrozek requested a variation of the start date of the suspension. On December 20, 2018, the Discipline Committee ordered as follows:

- The Discipline Committee grants the variance sought and orders that the six-month suspension, instead of "commencing immediately," shall commence on Friday, February 1, 2019 at 11:59 p.m.
- The Discipline Committee orders that the terms of the Interim Order of the Inquiries Complaints and Reports Committee, dated January 17, 2017, shall continue in effect until the commencement of the suspension on February 1, 2019 at 11:59 p.m.

Disgraceful, Dishonourable or Unprofessional Conduct – 5 cases

1. Dr. F.E. Allendes

Name:	Dr. Felipe Eduardo Allendes
Practice:	Post Graduate Education
Practice Location:	Toronto
Hearing:	Allegations - Uncontested Penalty – Joint Submission
Finding/Penalty Decision Date:	October 16, 2018
Written Decision Date:	December 13, 2018

Allegations and Findings

- disgraceful, dishonourable or unprofessional conduct - **proven**
- breached a term, condition or limitation on a member's certificate of registration - **proven**
- conduct unbecoming a physician - **proven**

Dr. Allendes received his certificate of registration authorizing postgraduate education from the College on July 1, 2010, at which time he commenced his residency in Emergency Medicine at McMaster University. Dr. Allendes' certificate of registration expired on June 30, 2014 in his fourth year of his postgraduate program. He did not complete his residency training.

Terms, Conditions and Limitations on Dr. Allendes Certificate of Registration

As a postgraduate trainee, Dr. Allendes' certificate of registration was subject to the following terms, conditions and limitations:

- Dr. Allendes was to practise medicine only as required by the postgraduate medical education program in which he was enrolled at McMaster University; and,
- Dr. Allendes was to prescribe drugs only for inpatients or outpatients of a clinical teaching unit that was formally affiliated with the Emergency Medicine department and as part of his postgraduate medical education program.

Effective September 1, 2013, until May 2014, Dr. Allendes' terms, conditions and limitations were modified to permit him to practise medicine in the Intensive Care Unit at Hamilton Health Sciences Corporation under supervision.

Prescribing in Breach of Terms, Conditions and Limitations and Diverting Drugs to Himself

In or around 2013, Dr. Allendes commenced an intimate personal relationship with Mr. X. On May 28, 2014, the College received a call from Mr. X, who identified himself as the former partner of Dr. Allendes. Mr. X advised the College that, during their relationship, Dr. Allendes would write prescriptions to Mr. X, including, for sleeping pills (Zopiclone) and Lorazepam. Dr. Allendes would direct Mr. X to fill the prescription and then give Dr. Allendes the medication. Mr. X advised that Dr. Allendes was using Lorazepam and sleeping pills on a daily basis to counter the effects of cocaine which he was using at the time. Mr. X reported that Dr. Allendes directed him to attend smaller independent pharmacies to have these prescriptions filled, hoping these pharmacies would not check whether Mr. X had been prescribed multiple prescriptions for the same medication. In order to avoid detection, Dr. Allendes also directed Mr. X to fill out the prescriptions himself, in Dr. Allendes name, so he could later deny having written them.

Dr. Allendes' conduct regarding these prescriptions to Mr. X was inappropriate and unprofessional. Moreover, Dr. Allendes issued or authorized these prescriptions in breach of his terms, conditions and limitations which permitted him to prescribe only as required for his postgraduate program or his supervised practice in the Intensive Care Unit.

Dr. Allendes also directed Mr. X to write prescriptions for Lorazepam using Dr. Y's name and CPSO number, rather than his own. Dr. Y was Dr. Allendes' friend and also a postgraduate medical student at McMaster University. Dr. Allendes directed Mr. X to write the prescriptions using Dr. Y's name as the issuing physician, fill the prescription and give Dr. Allendes the medication. One prescription written by Mr. X in Dr. Y's name bears the cellular phone number of Dr. Allendes, so that if any questions were asked of the prescribing physician (Dr. Y), the pharmacist would be directed to Dr. Allendes, not Dr. Y.

Prescribing in breach of Terms, Conditions and Limitations

In addition to prescribing to Mr. X, Dr. Allendes also engaged in professional misconduct by prescribing to Dr. Y. Dr. Allendes issued prescriptions in breach of his terms, conditions and limitations which permitted him to prescribe only as required for his postgraduate program or his supervised practice in the Intensive Care Unit.

March 2014 Nightclub Incident

In the early morning of March, 2014, Dr. Allendes placed a call to 911 while outside the club located in downtown Toronto, alleging that a person was having a medical Emergency. He claimed he was a physician who happened to be on scene and that he was performing CPR and that he required Emergency Medical Services on an urgent basis. He stated that the gentleman overdosed and was with a GCS sign and may

potentially need to be intubated, that he was convulsing and may need EMS support, that he was not awake and had shallow breath. In a subsequent call, Dr. Allendes claimed "ineffective CPR in progress".

As a result of Dr. Allendes' 911 call, Emergency Medical Services along with police were dispatched to the scene. When police arrived, it was determined that there was no person in medical distress, and that there was no basis for the 911 call. The police determined that the call had been a fake and that Dr. Allendes had placed the phone call to 911 as he was waiting in line to enter the club and was being denied access. Dr. Allendes was observed to be intoxicated and acting aggressively toward the police officers. Accordingly, he was placed under arrest and charged with being intoxicated in a public place.

Upon arrest, Dr. Allendes was found to be in possession of cocaine and was also charged with possession for the purposes of trafficking. None of these criminal charges resulted in a conviction. The possession of cocaine charge was stayed and the public intoxication charge was withdrawn on November 20, 2014.

Dr. Allendes' conduct during the incident described above was disgraceful, dishonourable or unprofessional and conduct unbecoming a physician.

Dr. Allendes' Leave from the Postgraduate Program and Participation in the PHP

On May 12, 2014, McMaster University placed Dr. Allendes on a leave of absence from his postgraduate program. As set out above, his certificate of registration expired on June 30, 2014. His certificate of registration was not renewed by the College. Dr. Allendes acknowledged early in the College investigation that he suffers from addiction, and sought assistance from the Physician Health Program (the "PHP"). He completed an inpatient admission at Homewood Health Centre to address his addiction issues, and continued in their after program for 9 months. On August 15, 2014, Dr. Allendes entered into a Substance Dependence Monitoring Contract with the Physician Health Program (the "PHP"). One year later, on August 18, 2015, the PHP provided the College with a report indicating that Dr. Allendes continued to be compliant with his PHP contract and was maintaining a comprehensive recovery program. In or around September 2015, Dr. Allendes decided to leave the country. He informed PHP and on September 20, 2015, the PHP advised the College that it had suspended Dr. Allendes' monitoring contract because of his departure.

Disposition

On October 16, 2018, the Discipline Committee ordered and directed that:

- the Registrar suspend Dr. Allendes' certificate of registration for a period of nine (9) months, effective immediately.
- Dr. Allendes attend before the panel to be reprimanded.
- Dr. Allendes pay to the College costs in the amount of \$10,180.00, within thirty

(30) days of the date of this Order.

2. Dr. D.H.D. Jones

Name:	Dr. David Harold Douglas
Practice:	Independent Practice
Practice Location:	Toronto
Hearing:	Allegations - Uncontested Penalty – Joint Submission
Finding/Penalty Decision Date:	October 1, 2018
Written Decision Date:	November 26, 2018

Allegations and Findings

- disgraceful, dishonourable or unprofessional – **proven**
- sexual abuse of a patient - **withdrawn**

Dr. Jones is a general practitioner who obtained his Doctor of Medicine from the University of Western Ontario in 1987 and received his certificate of registration authorizing independent practice in Ontario in 1988. He operated a family medicine practice in London, Ontario, for a number of years, until its closure in 2013. Dr. Jones currently practises on a part-time basis at a full-service rehabilitation clinic and has no longer practises in the family practice setting in which he practised in 2009.

Disgraceful, Dishonourable or Unprofessional Conduct

Patient A was a patient of Dr. Jones from 2001 to 2010. During appointments with Patient A, Dr. Jones made inappropriate and unprofessional comments to her as follows:

- in August 2009, Dr. Jones commented on Patient A's appearance during an intimate examination;
- during another intimate examination at the same appointment, Dr. Jones inquired about Patient A's interest in obtaining a tattoo in her vaginal area; and
- at a prior appointment that Patient A attended with her mother, after seeing a picture of a celebrity on a magazine cover, Dr. Jones made a crude comment indicating that he found the celebrity attractive.

Patient A was mortified and in disbelief that Dr. Jones would make such comments. She ended her physician-patient relationship with Dr. Jones in early 2010. Patient A continues to be affected by Dr. Jones's conduct. In June 2016 she submitted a complaint to the College regarding his inappropriate comments.

Relevant College History

In March 2009, Dr. Jones was cautioned by the Complaints Committee regarding a breach of boundaries in a physician-patient relationship. The boundaries violations consisted of inappropriate self-disclosure of a personal nature to a patient. In the context of the College investigation into that matter, Dr. Jones reported that he had attended the College's Boundaries Course on October 24-25, 2008.

In May 2010, Dr. Jones was cautioned by the Inquiries, Complaints and Reports Committee ("ICRC") regarding inappropriately asking a patient questions of a sexual nature in an occupational setting in which the patient had presented for an unrelated problem, and the use of a profane word in the context of the same patient encounter.

In July 2013, Dr. Jones was cautioned by the ICRC with respect to his communication to a teenage patient, which included comments and jokes that could be construed as sexual in nature, though the patient perceived that his intention in making the remarks was to be humorous.

Dr. Jones has no previous history before the Discipline Committee.

Disposition

On October 1, 2018, the Discipline Committee ordered and directed that:

- the Registrar suspend Dr. Jones's certificate of registration for a period of two (2) months, effective immediately.
- the Registrar impose the following terms, conditions and limitations on Dr. Jones's certificate of registration:
 - Dr. Jones will successfully complete the PROBE course in ethics and boundaries, at his own expense, by obtaining an unconditional pass, and will provide proof of completion to the College within six (6) months from the date of this Order.
- Dr. Jones attend before the panel to be reprimanded.
- Dr. Jones pay costs to the College in the amount of \$10,180 within thirty (30) days from the date of this Order.

3. Dr. C. Khuon

Name:	Dr. Chaut Khuon
Practice:	Family Medicine
Practice Location:	Gatineau, Quebec
Hearing:	Agreed Statement of Facts and Admission Penalty – Joint Submission
Finding/Penalty Decision Date:	December 17, 2018
Written Decision Date:	January 24, 2019

Allegations and Findings

- disgraceful, dishonourable or unprofessional conduct – **proven**

Dr. Khuon is a family physician who received his certificate of registration authorizing independent practice in 2008. At the relevant times, Dr. Khuon practiced family medicine in Ottawa, Ontario and practiced emergency medicine at the Gatineau Hospital in Gatineau, Quebec.

On March 27, 2017, the Collège des Médecins du Québec (the CMQ) provided information to the College of Physicians and Surgeons of Ontario (the CPSO) regarding an inquiry conducted by the CMQ into Dr. Khuon. The inquiry by the CMQ resulted from a report by the Gatineau Hospital about four incidents involving Dr. Khuon's care of two adults and two pediatric patients in the emergency department. The incidents took place between March 16, 2014 and December 5, 2014. The CMQ stated that Dr. Khuon was no longer registered as an active member of the CMQ.

Upon receipt of the letter from the CMQ dated March 27, 2017, the CPSO noted that Dr. Khuon had not disclosed on his Annual Renewal that he was registered with the CMQ. Dr. Khuon held an active certificate of registration in Quebec from 2000 to 2016. Dr. Khuon failed to declare that he was registered with the CMQ or that he held hospital privileges in Quebec on his Annual Renewals with the CPSO in 2014, 2015 and 2016. Prior to his Annual Renewal completed on May 9, 2014, Dr. Khuon had disclosed that he was registered with the CMQ on his Annual Renewals in 2010, 2011, 2012 and 2013.

Dr. Khuon's failure to declare on his Annual Renewals that he was registered with the CMQ or had hospital privileges in Quebec coincided with the incidents at the Gatineau Hospital, and the inquiry into the incidents by the hospital and then the CMQ. Dr. Khuon

resigned his privileges at the Gatineau Hospital in October 2015 and resigned from the CMQ in December 2016.

Facts Relevant to Penalty

On the basis of the information provided by the Collège des Médecins du Québec, the College conducted an investigation into Dr. Khuon's practice in Ontario. The College retained an expert to opine on Dr. Khuon's family medicine practice. Dr. Khuon was not practicing Emergency Medicine in Ontario. The expert reviewed 25 charts, interviewed Dr. Khuon, observed clinical encounters between Dr. Khuon and five patients at his office, and conducted a follow-up phone call with Dr. Khuon. The expert concluded that Dr. Khuon met the standard of practice of the profession, that Dr. Khuon did not display a lack of knowledge, skill or judgment, and that Dr. Khuon did not pose a risk of harm to patients.

On June 7, 2018, Dr. Khuon entered into an Undertaking in lieu of the imposition of an Order pursuant to s. 25.4 of the Health Professions Procedural Code, which is Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Section 25.4 Undertaking"). The Section 25.4 Undertaking, which is in effect until the allegations referred to the Discipline Committee have been disposed of, provides that a Clinical Supervisor is to review all of Dr. Khuon's pediatric patient charts every month and to report to the College on a quarterly basis.

The Clinical Supervisor has met with Dr. Khuon and reviewed all of his pediatric charts on a monthly basis as set out in the Section 25.4 Undertaking. The report to date from the Clinical Supervisor indicates that Dr. Khuon is practicing to an acceptable standard in his care of pediatric patients, with some recommendations having been made.

Also on June 7, 2018, Dr. Khuon entered into a second Undertaking with the College. In that second Undertaking, Dr. Khuon undertook that he:

- will not engage in the practice of Emergency Medicine in Ontario;
- will complete an Individualized Education Plan (IEP) for pediatric patients;
- will complete the next available CHEO Annual Refresher Course in Pediatrics; and
- will undergo a reassessment of his practice in respect of his pediatric patients approximately one year following his completion of the IEP.

Dr. Khuon completed the CHEO Annual Refresher Course in Pediatrics on November 9 and 10, 2018 and has completed the other components of the IEP. A reassessment of his practice in respect of his pediatric patients will accordingly take place in approximately one year. Dr. Khuon cooperated with the College in the course of its investigation.

Disposition

The Discipline Committee ordered that:

- The Registrar suspend Dr. Khuon's certificate of registration for a period of two (2) months, commencing from December 31, 2018 at 12:01 a.m.
- The Registrar place the following terms, conditions and limitations on Dr. Khuon's certificate of registration:
 - o Dr. Khuon will participate in and successfully complete, within 6 months of the date of this Order, individualized instruction in medical ethics with an instructor selected by the College, with a report or reports to be provided by the instructor to the College regarding Dr. Khuon's progress and compliance.
- Dr. Khuon attend before the panel to be reprimanded.
- Dr. Khuon pay costs to the College in the amount of \$6,000.00 within 30 days of the date of this Order.

4. Dr. C.C. Lee

Name:	Dr. Chee Choon Lee
Practice:	Family Medicine
Practice Location:	Scarborough
Hearing:	Allegations - Contested Penalty – Contested
Finding/Written Decision Date:	December 14, 2017
Penalty/Written Decision Date:	November 27, 2018

Allegations and Findings

- disgraceful, dishonorable, or unprofessional conduct – **proven**
- sexual abuse of a patient – **not proven**

Patient A

Patient A saw Dr. Lee from approximately 2000 until July 2014. Patient A alleged that prior to July 2014, Dr. Lee had touched her shoulders and legs, which she did not feel was for a medical purpose. Patient A further alleged that when she thanked Dr. Lee, he responded by saying "How will you thank me?" which comment she believed was sexual in nature. Patient A also alleged that at an appointment in July 2014, Dr. Lee came close to her, put his hands on her shoulders and kissed her on the lips.

Given that Patient A had ongoing problems with rheumatoid arthritis which caused pain and swelling in her joints and the examinations recorded in Patient A's medical record, the Discipline Committee was satisfied that Dr. Lee performed appropriate medical examinations, which would have involved touching of the shoulders and legs of Patient A.

The Committee was not persuaded that Dr. Lee uttered the words “How will you thank me?” in the manner described by Patient A. The Committee found no support in evidence to assign a sexual connotation to the alleged words.

The Committee found that Dr. Lee did not kiss Patient A on the lips. The Committee accepted that Dr. Lee was sufficiently close to Patient A that a movement of her head resulted in a lipstick smear on his cheek. The Committee found no support in the evidence that Dr. Lee wanted a sexual relationship with her. Given Dr. Lee’s management and involvement in Patient A’s medical problems over the years, the Committee found that Dr. Lee made a supportive gesture toward Patient A. A physician’s gesture of empathy or support was, in the view of the Committee, understandable in the circumstances.

Nevertheless, the Committee found that Dr. Lee came too close to Patient A for no medically justifiable reason, and in doing so, he behaved unprofessionally and made her feel uncomfortable. The Committee found that by being in such close proximity to Patient A for no medical purpose, Dr. Lee has engaged in an act relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Patient B

On January 30, 2017, the Inquiries Complaints Reports Committee issued an Order requiring Dr. Lee to have a female monitor, who is a regulated health professional, present for all professional encounters with female patients. Dr. Lee did not arrange for a monitor; he modified his practice to see only male patients.

In May 2017, Dr. Lee saw Patient B when she attended with her husband and administered an injection of Prolia for osteoporosis.

Patient B received the first of two injections of Prolia for osteoporosis in November 2016 and has not seen Dr. Lee since that time. She was due to have a second injection in May, 2017. Although Dr. Lee’s office staff had called her residence a number of times to cancel the appointment, no-one answered the telephone. In May, 2017, she requested to have the shot administered, but this was refused by clinic staff.

Patient B’s accompanied her husband to see Dr. Lee for a follow up appointment. They saw the sign in the office indicating that Dr. Lee was not to see female patients without a monitor, but thought it was fine as she was with her husband. Patient B was upset and crying as she was concerned about not receiving the injection. Her husband begged Dr. Lee to give her the injection, which Patient B had brought with her. Dr. Lee deferred for a while, but then administered the injection in Patient B’s upper arm.

Dr. Lee neither submitted a billing for Patient B in May, 2017, nor did he make a note on her chart. Dr. Lee did not dispute that he administered an injection to Patient B and that this constituted a contravention of the ICRC Order dated January 30, 2017.

The Committee stated that while this particular transgression may appear minor, the College relies on the honesty and integrity of its members to abide by orders of its Committees to regulate the profession in the public interest. The ICRC orders and the orders of other College Committees are made to ensure safety of the public. When, as here, there is a failure by a member to adhere to such an Order, in a non-emergency circumstance, where reasonable treatment alternatives are available, and where care is not critical in terms of patient safety, this constitutes professional misconduct and sanction must follow.

The Committee found that Dr. Lee engaged in disgraceful, dishonourable or unprofessional conduct by breaching the Order of the ICRC dated January 30, 2017.

Disposition

On November 27, 2018, the Discipline Committee ordered that:

- The Registrar suspend Dr. Chee Choon Lee's certificate of registration for a period of three (3) months, to commence 15 days from the date of this order.
- Dr. Lee is required to appear before the panel to be reprimanded.
- Dr. Lee pay to the College costs in the amount of \$21,180.00 within 30 days of the date of this Order.

5. Dr. W.A. Roy

Name:	Dr. William Andrew Roy
Practice:	Independent Practice
Practice Location:	Toronto
Hearing:	Agreed Statement of Facts and Admission Penalty – Joint Submission
Finding/Penalty Decision Date:	September 27, 2018
Written Decision Date:	November 27, 2018

On September 27, 2018, the Discipline Committee found that Dr. William Andrew Roy committed an act of professional misconduct, in that he has engaged in conduct or an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Dr. Roy is a General Practitioner, practising in Toronto. He obtained his Independent Practice Certificate in 1971.

The College received information from the Narcotics Monitoring System (NMS) identifying Dr. Roy as having prescribed, in 2015, eight or more patients at least 650 oral morphine equivalents (OMEs) per day and issued at least one prescription exceeding 20,000 OMEs. This prescribing exceeds the recommended watchful dose of 200 OMEs per day as set out in The Canadian Guideline for Safe and Effective Use of Opioids for Chronic Non-Cancer Pain (v 5.6, April 30, 2010). In total, 19 patients were flagged by the NMS.

The College retained an expert, a family physician certified by the College of Family Physicians of Canada, to review this matter. The expert concluded that Dr. Roy failed to meet the standard of practice of the profession in 13 of the 20 charts reviewed and noted that:

- the main areas of concern are his prescriptions for very high doses of opioids, often in combination with high doses of benzodiazepines, poor record keeping with respect to opioid prescribing, and lack of monitoring of patients with prescriptions for high doses of opioids.
- Dr. Roy displayed a lack of knowledge in 2 charts as evident in situations where he indicated that he prescribed two different long-acting opioids as one did not appear to be effective, and where a patient was currently using intravenous street drugs, but he felt that the patient would still require prescription opioids for his pain.
- Dr. Roy displayed a lack of skill in 5 charts as evident by his management of patients who demonstrated inappropriate behaviour or features of misuse.
- Dr. Roy displayed a lack of judgment in 10 of the charts reviewed, which was evident in the management of patients who were prescribed high doses of opioids and benzodiazepines without adequate monitoring for safety and effectiveness.

The expert concluded that in 7 of the 20 charts reviewed, Dr. Roy exposed patients to a potential risk of harm due to the extremely high doses of opioids that were prescribed in combination with high doses of benzodiazepines and by not monitoring the patients closely enough to ensure that they were taking the medications safely.

Disgraceful Dishonourable or Unprofessional Conduct

As a resolution, Dr. Roy entered into an undertaking with the College in June of 2017, requiring, among other things, that Dr. Roy practise under the guidance of a clinical supervisor acceptable to the College. If unable to obtain a clinical supervisor, Dr. Roy is required to cease to prescribe narcotic drugs, narcotic preparations, controlled drugs, benzodiazepines and other targeted substances, and all other monitored drugs.

Dr. Roy obtained a clinical supervisor on July 19, 2017. However, on August 29, 2017, due to a potential conflict of interest, Dr. Roy was notified that this clinical supervisor was no longer suitable. Dr. Roy was provided with fourteen days to obtain a new clinical supervisor.

Dr. Roy did not propose a suitable supervisor within the time limit set out in the undertaking. He was reminded on September 12, 2017, that, in accordance with the terms of the undertaking, he would have to cease prescribing by the end of the day, unless a supervisor was proposed and approved. Following a request by Dr. Roy's counsel, an extension was provided until September 15, 2017.

Dr. Roy was unable to find a suitable clinical supervisor by the extended deadline. In accordance with the terms of the undertaking, and the terms, conditions and limitations on his certificate of registration effective September 19, 2017, Dr. Roy was required to cease prescribing narcotic drugs, narcotic preparations, controlled drugs, benzodiazepines and other targeted substances, and all other monitored drugs until such time as he has obtained a clinical supervisor acceptable to the College. This restriction appeared on the public register.

On October 13, 2017, another clinical supervisor was approved. On October 18, 2017, the clinical supervisor wrote to the College, noting that Dr. Roy had stated in their initial meeting earlier that day that he had continued to prescribe controlled substances during the period of time when he did not have a supervisor.

College Compliance Case Managers selected 13 patient names from Dr. Roy's prescribing log and obtained copies of the prescriptions and physician's notes from the corresponding charts. NMS data was obtained with respect to the 13 patients, which demonstrates that Dr. Roy continued to prescribe monitored drugs between the period of September 19, 2017 and October 18, 2017.

Disposition

On September 27, 2018, the Discipline Committee ordered and directed that:

- the Registrar suspend Dr. Roy's certificate of registration for a period of three (3) months, commencing October 15, 2018.
- Dr. Roy participate in and successfully complete one-on-one individualized educational instruction in ethics with an instructor approved by the College, and provide proof thereof to the College within six (6) months of the date of this Order.
- Dr. Roy appear before the panel to be reprimanded.
- Dr. Roy pay to the College its costs of this proceeding in the amount of \$10,180 within thirty (30) days from the date of this Order.

Application for Reinstatement – 1 case

1. Dr. B.E. Williams

Name:	Dr. Bryan Edward Williams
Practice:	Independent Practice
Practice Location:	Mattawa
Hearing:	Application for Reinstatement - granted
Decision/Written Date:	December 11, 2018

On December 11, 2018, the Discipline Committee granted Dr. Bryan Edward Williams' application for reinstatement.

On June 11, 2012, the Discipline Committee found that Dr. Williams committed an act of professional misconduct, in that he engaged in the sexual abuse of a patient, and in that he engaged in conduct or an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional. Dr. Williams admitted the allegations. The Discipline Committee ordered among other terms that the Registrar revoke Dr. William's certificate of registration.

In its decision on the application for reinstatement, the Committee indicated that Dr. Williams had gained an understanding and insight into his misconduct. Since his revocation, he has shown compliance with his therapy and a clear appreciation of the harmful impact his actions had on Patient A. The Committee concluded that if reinstated, he poses no substantive risk to patients. He has shown good character and honesty, as evidenced by the reports from his treating and assessing physicians, and in letters from his colleagues and community. The proposed re-entry to practise with continuing treatment and a very detailed monitoring and supervision is safe and reasonable.

The Discipline Committee ordered and directed that:

- The Registrar issue a certificate of registration to Dr. Williams.
- The Registrar impose the following terms, conditions and limitations on Dr. Williams' certificate of registration:
 - a. Dr. Williams shall practise only in a group practice setting.
 - b. Dr. Williams shall limit his practice hours based on the recommendations of his PHP (as defined below) and as approved by the College.

Clinical Supervision

 - c. For a period of no less than eight (8) months, Dr. Williams shall practise under the guidance of two (2) clinical supervisors: (a) Dr. John Philip Seguin ("Dr. Seguin"); and (b) Dr. Frederic Farid Loutfi ("Dr. Loutfi") ("Clinical Supervision"). Dr. Seguin and Dr. Loutfi are herein collectively referred to as the "Clinical Supervisors", or individually as a "Clinical Supervisor".
 - d. Prior to re-entering practice, Dr. Williams shall arrange for Dr. Seguin and

Dr. Loutfi to sign an undertaking in the form attached to this Order as Schedule "A".

High Level Supervision

- e. For an initial period of no less than one (1) month, Dr. Williams shall practise under high level supervision ("High Level Supervision"), during which time Dr. Williams shall practise only at the following locations and on the following terms:
- i. Dr. Williams shall practise with Dr. Seguin at least one full day each week at Dr. Seguin's practice location at 506 Astorville Road, Astorville, Ontario ("Astorville Practice");
 - ii. Dr. Williams shall practise with Dr. Loutfi at the following practice locations:
 1. Group Family Medicine Practice at 217 Turcotte Park Road, Mattawa, Ontario ("Mattawa Family Practice");
 2. Algonquin Nursing Home at 231 10th Street S., Mattawa, Ontario ("Algonquin Nursing Home"); and
 3. Mattawa Hospital Emergency Room at 217 Turcotte Park Road, Mattawa, Ontario ("Mattawa Hospital ER").
- f. During the period of High Level Supervision, at least one of the Clinical Supervisors shall, at minimum:
- i. Meet with Dr. Williams, in person, at least once per week;
 - ii. Be the Most Responsible Physician ("MRP") for all patients with whom Dr. Williams interacts, regardless of whether the Clinical Supervisor is physically present during the patient encounter with Dr. Williams:
 1. Dr. Seguin shall be the MRP for all patients with whom Dr. Williams interacts at the Astorville Practice; and
 2. Dr. Loutfi shall be the MRP for all patients with whom Dr. Williams interacts at the Mattawa Family Practice, Algonquin Nursing Home, and Mattawa Hospital ER locations;
 - iii. Be available on-site during all times that Dr. Williams is interacting with patients; provided, however, Dr. Loutfi shall be the Clinical Supervisor available (on-site) for all patients with whom Dr. Williams interacts at the Algonquin Nursing Home and Mattawa Hospital ER locations;
 - iv. Initially, directly observe all of Dr. Williams' patient encounters until the Clinical Supervisor is satisfied that Dr. Williams should be able to see patients without direct supervision. After the Clinical Supervisor makes a determination that Dr. Williams should be able to see patients without direct supervision, the Clinical Supervisor shall continue to directly observe at least one (1) of Dr. Williams' patient encounters each day. With respect to this direct observation, each month,
 1. At least three (3) of such observations shall be by Dr. Loutfi at the Algonquin Nursing Home;
 2. At least three (3) of such observations shall be by Dr. Loutfi at the Mattawa Hospital ER;
 3. At least three (3) of such observations shall be by either Clinical

- Supervisor at either the Mattawa Family Practice or Astorville Practice locations; and
4. The remainder of such observations may be at any of the Algonquin Nursing Home, Mattawa Hospital ER, Mattawa Family Practice or Astorville Practice locations, and may be observed by either Clinical Supervisor;
 - v. Directly observe Dr. Williams when Dr. Williams is performing any procedures that he has not already performed under supervision. If Dr. Williams performs any new procedures at the Algonquin Nursing Home or the Mattawa Hospital ER, Dr. Loutfi shall be the directly observing Clinical Supervisor; and
 - vi. Review daily with Dr. Williams all patient charts for all patients seen by Dr. Williams and approve, or modify if necessary, all management plans.
- g. During the period of High Level Supervision, each Clinical Supervisor shall, after his first meeting/observation of Dr. Williams and at least monthly thereafter, provide the College with a report containing:
 - i. A list of all charts reviewed with patient identifiers, with an overview of the types of presenting problems addressed in the charts and discussed with Dr. Williams;
 - ii. Identification of any concerns;
 - iii. Identification of the Clinical Supervisor's recommendations and Dr. Williams' success in implementing any changes into his practice; and
 - iv. The Clinical Supervisor's opinion as to whether Dr. Williams is ready to transition to Moderate Level Supervision (as defined below).
 - h. After no less than one (1) month of High Level Supervision, and upon recommendation by either or both of the Clinical Supervisors, the College may, in its sole discretion reduce the degree of Clinical Supervision to a moderate level of supervision ("Moderate Level Supervision").

Moderate Level Supervision

- i. If the transition is recommended by either or both of the Clinical Supervisors, and approved by the College in its sole discretion, Dr. Williams shall practice under Moderate Level Supervision for a period of no less than four (4) months, during which time:
 - i. Dr. Williams shall practice only at the following locations:
 1. Mattawa Family Practice at 217 Turcotte Park Road, Mattawa, Ontario;
 2. Algonquin Nursing Home at 231 10th Street S., Mattawa, Ontario; and
 3. Mattawa Hospital ER at 217 Turcotte Park Road, Mattawa, Ontario.
 - ii. Dr. Williams may be the MRP for patients cared for by Dr. Williams;
 - iii. At least one of the Clinical Supervisors shall be available by telephone during all times that Dr. Williams is interacting with patients; provided, however, Dr. Loutfi shall be the Clinical Supervisor available (by

- telephone) for all patients with whom Dr. Williams interacts at the Algonquin Nursing Home and Mattawa Hospital ER locations;
- iv. For Dr. Williams' emergency room practice ("ER Practice"), supervision shall be in accordance with the College's Policy, "Expectations of Physicians not Certified in Emergency Medicine Intending to Include Emergency Medicine as Part of Their Rural Practice – Changing Scope of Practice Process";
 - v. Each Clinical Supervisor shall, at minimum, meet separately with Dr. Williams at least once per month, in person (if an in person meeting is not possible, this meeting may occur through another form of visual and audio communication that accords with the College's Telemedicine Policy), to review 10 to 15 patient charts to comment on documentation and care. Each such review of 10 to 15 patient charts shall include at least two (2) examples from each of Dr. Williams' three practice settings (Algonquin Nursing Home, Mattawa Hospital ER, and Mattawa Family Practice); and
 - vi. Each Clinical Supervisor shall, at least every two (2) months, provide the College with a report containing:
 1. A list of all charts reviewed with patient identifiers, with an overview of the types of presenting problems addressed in the charts and discussed with Dr. Williams;
 2. Identification of any concerns;
 3. Identification of the Clinical Supervisor's recommendations and Dr. Williams' success in implementing any changes into his practice; and
 4. The Clinical Supervisor's opinion as to whether Dr. Williams is ready to transition to Low Level Supervision (as defined below).
 - j. After no less than four (4) months of Moderate Level Supervision, and upon recommendation by either or both of the Clinical Supervisors, the College may, in its sole discretion reduce the degree of Clinical Supervision to a Low Level of Supervision ("Low Level Supervision").

Low Level Supervision

- k. If the transition is recommended by either or both of the Clinical Supervisors, and approved by the College, Dr. Williams shall practice under Low Level Supervision, for a period of no less than three (3) months, during which time:
 - i. Dr. Williams shall practice only at the following locations:
 1. Mattawa Family Practice at 217 Turcotte Park Road, Mattawa, Ontario;
 2. Algonquin Nursing Home at 231 10th Street S., Mattawa, Ontario; and
 3. Mattawa Hospital ER at 217 Turcotte Park Road, Mattawa, Ontario;
 - ii. Dr. Williams may be the MRP for patients cared for by Dr. Williams;
 - iii. At least one of the Clinical Supervisors shall be available to Dr. Williams by telephone (but not necessarily in real time during Dr.

Williams' patient interactions); provided, however, Dr. Loutfi shall be the Clinical Supervisor available (by telephone) for all patients with whom Dr. Williams interacts at the Algonquin Nursing Home and Mattawa Hospital ER locations;

- iv. For Dr. Williams' ER Practice, supervision shall be in accordance with the College's Policy, "Expectations of Physicians not Certified in Emergency Medicine Intending to Include Emergency Medicine as Part of Their Rural Practice – Changing Scope of Practice Process";
- v. Each Clinical Supervisor shall, at minimum, meet separately with Dr. Williams at least once every other month (such that Dr. Williams meets with one of the Clinical Supervisors each month), in person (if an in person meeting is not possible, this meeting may occur through another form of visual and audio communication that accords with the College's Telemedicine Policy), to review 10 to 15 patient charts to comment on documentation and care. Each such review of 10 to 15 patient charts shall include at least two examples from each of Dr. Williams' three practice settings (Algonquin Nursing Home, Mattawa Hospital ER, and Mattawa Family Practice); and
- vi. Each Clinical Supervisor shall, at least every three months, provide the College with a report containing:
 - 1. A list of all charts reviewed with patient identifiers, with an overview of the types of presenting problems addressed in the charts and discussed with Dr. Williams;
 - 2. Identification of any concerns;
 - 3. Identification of the Clinical Supervisor's recommendations and Dr. Williams' success in implementing any changes into his practice; and
 - 4. The Clinical Supervisor's opinion as to whether Dr. Williams is ready to transition to an unsupervised practice, subject to the College-directed assessment of practice (as described below).

Other Elements of Clinical Supervision

- l. Throughout the period of Clinical Supervision, Dr. Williams shall abide by all recommendations of the Clinical Supervisors.
- m. Throughout the period of Clinical Supervision, Dr. Williams shall, with respect to each patient for which Dr. Williams provides care:
 - i. In each patient chart, record the name of the MRP; and
 - ii. Obtain copies of reports from other health-care/medical providers that are relevant to the patient's ongoing care and ensure that such reports are reviewed and included in a patient care follow-up plan.

Assessment of Practice

- n. After no less than three (3) months of Low Level Supervision, and upon recommendation by either or both of the Clinical Supervisors that Dr. Williams may be ready to transition to an unsupervised practice, Dr. Williams shall undergo an assessment of his practice (the "Assessment") by a College-appointed assessor or assessors (the "Assessor"). For clarity, until

the Assessment is complete and the College approves Dr. Williams' entry into unsupervised practice, Dr. Williams shall continue to practice under Low Level Supervision. However, during the Assessment, the Clinical Supervisors shall no longer be required to continue providing reports to the College unless a Clinical Supervisor has concerns about Dr. Williams or his practice.

- o. The Assessment shall include all of Dr. Williams' three practice settings (Algonquin Nursing Home, Mattawa Hospital ER, and Mattawa Family Practice). The Assessment may include (at the College's discretion) a review of Dr. Williams' patient charts, direct observation of Dr. Williams' practice, an interview with Dr. Williams, interviews with colleagues and coworkers, feedback from patients, consultations with Dr. Williams' treating psychiatrist(s) and other treating physicians, and any other tools deemed necessary by the College. Dr. Williams shall abide by all recommendations made by the Assessor.
- p. The Assessor shall be provided with a copy of this Order, the Discipline Committee's Reasons for Decision in this matter, and the copies of the reports of the Clinical Supervisors referred to above.
- q. The Assessor shall submit a written report to the College regarding Dr. Williams' standard of practice and this report may form the basis for further action by the College.
- r. The College shall review the final assessment report of the Assessor and make a determination, in its sole discretion, as to whether Dr. Williams can enter unsupervised practice. For clarity, Dr. Williams shall not enter unsupervised practice unless and until the College approves him to do so.

Monitoring Terms

- s. Dr. Williams shall cooperate, and shall not interfere with, unannounced inspections of his practice by the College and to any other activity the College deems necessary for the purpose of monitoring Dr. Williams' compliance with the terms of this Order.
- t. Dr. Williams shall provide the College with his irrevocable consent to make appropriate enquiries of the Ontario Health Insurance Plan, and/or any person(s) or institution(s) that may have relevant information, in order for the College to monitor his compliance with the terms of this Order.

Education

- u. Dr. Williams shall participate in, and successfully complete, all aspects of the detailed Individualized Education Plan ("IEP"), attached hereto as Schedule "B", including but not limited to all of the following professional education ("Professional Education"):
 - i. Clinical Supervision;
 - ii. During the period of High Level Supervision, Dr. Williams shall review, and discuss with one of his Clinical Supervisors, The College of Family Physicians of Canada three-part article on patient centred interviewing (Can. Fam. Physician Vol. 35: January 1989):
 - 1. Patient-Centred Interviewing, Part I: Understanding Patients'

- Experiences;
- 2. Patient-Centred Interviewing, Part II: Finding Common Ground; and
- 3. Patient-Centred Interviewing, Part III: Five Provocative Questions;
- iii. During the period of High Level Supervision, as part of each Clinical Supervisor's direct observation of Dr. Williams' patient encounters, the Clinical Supervisor shall discuss patient-centred questioning with Dr. Williams;
- iv. During all periods of Clinical Supervision, every other month, Dr. Seguin shall assign topics for Dr. Williams to study. The topics for study shall include but are not limited to:
 - 1. Patient-Centred Interviewing;
 - 2. Antibiotics: Anti-Infective Guidelines for Community-Acquired Infections;
 - 3. Narcotics: Canadian Guideline for Safe and Effective Use of Opioids for Chronic Non-Cancer Pain;
 - 4. Diabetes;
 - 5. Medical Record Keeping;
 - 6. ER Practice Issues; and
 - 7. Nursing Home Practice Issues.

With respect to each such topic, Dr. Williams shall study the relevant and applicable guidelines and shall discuss such guidelines with Dr. Seguin;
- v. With the assistance of a Clinical Supervisor, Dr. Williams shall collect and review different templates and approaches to disease prevention, and Dr. Williams shall discuss these with his Clinical Supervisor;
- vi. With the assistance of a Clinical Supervisor, Dr. Williams shall meet with support staff at each of his practice locations to optimize patient call-backs, patient charting, and follow-up when patients fail to attend for important results; and
- vii. Dr. Williams shall:
 - 1. Prepare a proposed personal continuing professional development ("CPD") program that includes continuing professional development relevant to each of Dr. Williams' three practice settings (Algonquin Nursing Home, Mattawa Hospital ER, and Mattawa Family Practice/Astorville Practice) (the "Proposed CPD Program");
 - 2. Discuss the Proposed CPD Program with Dr. Seguin and modify the proposed CPD Program pursuant to Dr. Seguin's recommendations, if any (the "CPD Program");
 - 3. Complete the CPD Program during the twelve (12) months following receipt of Dr. Seguin's recommendations to the Proposed CPD Program; and
 - 4. Within one (1) month of completing the CPD Program, provide

proof to the College of his successful completion of the CPD Program.

- v. The College shall determine, in its sole discretion, whether Dr. Williams has successfully completed the Professional Education.

Other Elements of Clinical Supervision, Professional Education and Assessment

- w. If, prior to completion of Clinical Supervision, either Clinical Supervisor is unwilling or unable to continue in that role for any reason, Dr. Williams shall retain a new College-approved Clinical Supervisor who shall sign a College-approved undertaking in a similar form to the undertaking at Schedule "A". If Dr. Williams fails to retain a Clinical Supervisor on the terms set out above (including obtaining an executed undertaking in the similar form to Schedule "A") within 20 days of receiving notification that a former Clinical Supervisor is unwilling or unable to continue in that role, Dr. Williams shall cease practicing medicine until such time as he has obtained a Clinical Supervisor acceptable to the College and who has signed the appropriate undertaking. If Dr. Williams is required to cease practice as a result of this paragraph, this shall constitute a term, condition and limitation on Dr. Williams' certificate of registration and such term, condition and limitation shall be included on the public register of the College.
- x. Dr. Seguin and Dr. Loutfi shall communicate with each other on an as-needed basis, but in any event no less than monthly. Dr. Seguin and Dr. Loutfi shall copy each other, and Dr. Williams, on their reports to the College.
- y. The patient charts reviewed by the Clinical Supervisors pursuant to this Order shall be selected by the reviewing Clinical Supervisor based on the educational needs identified in the IEP, attached to this Order as Schedule "B", and based on any concerns that may arise during the period of Clinical Supervision.
- z. Dr. Williams shall consent to the disclosure and sharing of information between the Clinical Supervisors, the Assessor(s) and the College as any of them deem necessary or desirable in order to fulfill their respective obligations.
- aa. Any person who acts as a Clinical Supervisor or Assessor for Dr. Williams shall be provided with and read copies of this Order and the Discipline Committee's Reasons for Decision in this matter, and shall immediately report to the College any failure to maintain the terms of this Order.

Other

- bb. Prior to re-entering practice, Dr. Williams shall enter into a five (5) year contract as a licensed physician with the Physician Health Program of the Ontario Medical Association ("PHP").
- cc. Dr. Williams shall continue to receive treatment from, and shall comply with all treatment recommendations of his psychiatrist, Dr. Rachel Henry, or with another therapist acceptable to the College ("Psychotherapist"). Dr. Williams shall provide to his Psychotherapist a copy of this Order and the Discipline Committee's Reasons for Decision. Dr. Williams shall attend with

the Psychotherapist at least once every four (4) months and the Psychotherapist shall submit reports to the College every four (4) months. Those reports shall include information relevant to Dr. Williams' fitness and/or capacity to practise medicine. Additionally, if the Psychotherapist forms an opinion that Dr. Williams' continued practice poses a risk of harm to patients or the public, she shall report that information to the College immediately. Dr. Williams shall arrange for his Psychotherapist to sign an undertaking (in a form acceptable to the College) confirming her willingness and ability to comply with the above.

- dd. Dr. Williams shall continue to receive treatment from, and shall comply with all treatment recommendations of his addiction medicine physician, Dr. Maris Andersons, or with another addiction specialist acceptable to the College ("Addiction Specialist"). Dr. Williams shall provide to his Addiction Specialist a copy of this Order and the Discipline Committee's Reasons for Decision. Dr. Williams shall attend with the Addiction Specialist at least once every six (6) months. The Addiction Specialist shall submit reports to the College every six (6) months. Those reports shall include information relevant to Dr. Williams' fitness and/or capacity to practise medicine. Additionally, if the Addiction Specialist forms an opinion that Dr. Williams' continued practice poses a risk of harm to patients or the public, he shall report that information to the College immediately. Dr. Williams shall arrange for his Addiction Specialist to sign an undertaking (in a form acceptable to the College) confirming his willingness and ability to comply with the above.
- ee. Dr. Williams shall continue to attend and participate in therapy with:
 - i. Alcoholics Anonymous, with regular attendance at weekly meetings, and in any event attendance at no less four (4) meetings each month;
 - ii. Caduceus Group, with regular attendance at meetings and in any event attendance at no less than one (1) meeting every month.
 At least once every four (4) months, Dr. Williams shall provide to the College proof of his compliance with this subparagraph (ee).
- Dr. Williams shall be solely responsible for any and all fees, costs, charges, expenses, etc. associated with implementing the terms of this Order.
- The results of this proceeding to be included on the public register of the College.

Council Motion

Motion Title: In Camera Motion

Date of Meeting: March 1, 2019

It is moved by _____,

and seconded by _____, that:

The Council exclude the public from the part of the meeting immediately after this motion is passed, under clauses 7(2)(b) of the Health Professions Procedural Code.