

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Citation: *College of Physicians and Surgeons of Ontario v. Parajian*, 2025 ONPSDT 15

Date: May 7, 2025

Tribunal File No.: 24-018

BETWEEN:

College of Physicians and Surgeons of Ontario

College

- and -

Armen Parajian

Registrant

FINDING AND PENALTY REASONS

Heard: March 27, 2025, by videoconference

Panel:

David A. Wright (Tribunal Chair)

Lucy Becker (public)

Linda Robbins (public)

Katina Tzanetos (physician)

Susanna Yanivker (physician)

Appearances:

Kathleen Farrell, for the College

Brookelyn Kirkham, Andrew Faith and Emily Young, for the registrant

RESTRICTION ON PUBLICATION

Pursuant to Rule 2.2.2 of the HPDT Rules of Procedure and ss. 45-47 of the Health Professions Procedural Code, no one shall publish or broadcast the names of patients or any information that could identify patients or disclose patients' personal health information or health records referred to at a hearing or in any documents filed with the Tribunal. The Tribunal also ordered that no one shall publish or broadcast the names or any information that could identify victims of the registrant's misconduct. There may be significant fines for breaching these restrictions.

Introduction

[1] Dr. Parajian pleaded guilty in criminal court to harassing 13 victims over a six-month period, in each case by driving slowly near them in his Jeep. Twelve of the victims were girls between 10 and 15. Before us, he also admitted to masturbating in the passenger seat of his Jeep while parked on the street, which was seen by an adult victim. These events happened in Toronto's Beaches neighbourhood. For a period of about two years before that, there had been numerous reports of indecent exposure by a man in a white Jeep in the area.

[2] Dr. Parajian admitted these facts, and that they established professional misconduct. He and the College jointly submitted that the penalty should be the revocation of his certificate of registration and a reprimand. We agreed this was appropriate and issued an order accordingly.

[3] While the parties agreed on the findings and penalty, they did not agree on one point: whether having no prior discipline history is a mitigating factor on penalty. The case law on this issue is inconsistent, and the parties were unable to find any Ontario cases where there was a detailed discussion of the question. We find that the absence of prior discipline is neutral, rather than mitigating, for reasons we explain below.

[4] Tribunal Chair David Wright conducted case management conferences in this matter and sits on the panel with the consent of both parties.

Finding

[5] Dr. Parajian was charged criminally in the spring of 2021 with offences relating to 13 female victims, 12 of whom were children between the ages of 10 and 15. The charges included criminal harassment against the child victims and a charge of indecent act for public masturbation involving the one adult complainant.

[6] In December 2021, Dr. Parajian entered a guilty plea in the Ontario Court of Justice to the offence of criminal harassment "by repeatedly following" in relation to his conduct toward all 13 victims. The conduct underlying the conviction took place over six

months, between November 2020 and May 2021. Dr. Parajian's fourteen other charges were withdrawn as part of the resolution.

[7] The guilty plea was based on the following agreed statement of facts:

Armen Parajian, the accused, lives in the Beaches neighbourhood of the City of Toronto, Ontario. He has lived in this area throughout the period of 2019 to 2021. The accused owned a white 2018 four-door Jeep Wrangler from 2019 to 2021.

Starting in June 2019 and throughout 2020, there were reports of incidents of indecent exposure by a man in a white jeep in the Beaches neighbourhood; often in relation to children aged 10 to 15. There is no dispute that these incidents took place. Some of the victims described the assailant as Caucasian, while others described him as Middle Eastern. The witnesses also offered different descriptions of the assailant's hair, ranging from short, buzzed hair to bald and in a range of different hair colours.

The Jeep involved in these reports was described variously as a newer model Jeep, white, most likely a TJ or Wrangler model with either two or four doors. These incidents were reported to police. The police conducted investigations into each of these reports. As a result of these investigations, the police issued public notices providing a description of the suspect and vehicle as described by witnesses, in each of the instances reported.

The police notices resulted in further reports of additional incidents that resulted in additional police investigation. The police reports of these incidents were circulated widely on neighbourhood social media and by local news media. These police and media reports were also the subject of conversation between groups of school-aged friends and their parents in the neighbourhood, who were either involved in these incidents [or] being told about the incidents by people proximate to the report. This naturally caused great concern among the children and their parents.

On numerous occasions between November 28th, 2020, and May 18th, 2021, the accused was driving his white Jeep in the area of Blantyre Park, in the City of Toronto. On each of these occasions, he drove slowly near the groups of victims who were together. On more than one occasion the accused also stopped near where the victims were located for no apparent reason.

On more than one occasion it appeared to the victims that he was pretending to use his phone to record or photograph them when he stopped near them. The accused was completely unknown to the victims. Throughout these encounters, it appeared to the victims that the accused was following or watching them. As a result, the victims reasonably feared for their safety based on their perception of the accused's conduct.

Particularly in the context of the report circling in the neighbourhood at the time, the accused was reckless as to

whether his conduct of driving slowly in the vicinity of the victims would cause them to feel harassed.

This conduct makes out the offence of harassment by repeatedly following under Section 264(2)(a) of the Criminal Code.

[8] Dr. Parajian was sentenced to probation for rehabilitation and ongoing community supervision for three years. He has now completed his probation.

[9] Nine days before his arrest on the criminal charges, Dr. Parajian parked his Jeep on a residential street in the Toronto Beaches neighbourhood during the day. After parking, Dr. Parajian moved into the front passenger's seat. The Jeep's windows and sunroof were open. Dr. Parajian pulled his pants down and began masturbating while still sitting in the passenger's seat. From her home across the street, the adult victim observed Dr. Parajian.

[10] At the same time, the victim saw two young girls, approximately 13 years old, walking northbound toward the Jeep. She saw that the girls were about to walk right beside the passenger's side of the vehicle where Dr. Parajian was masturbating with the window open. She ran from upstairs, out to the street and approached Dr. Parajian's vehicle. The girls had moved on at this point and did not know what was going on. The victim yelled at Dr. Parajian, asking him what he was doing. Dr. Parajian was startled. He pulled his pants up and quickly moved into the driver's seat. He told the victim he was just on his phone. When she said she would take a picture of his licence plate, he drove away.

[11] Dr. Parajian has been found guilty of a criminal offence relevant to his suitability to practise and his conduct would be reasonably regarded by registrants as disgraceful, dishonourable and unprofessional. The former is defined as an act of professional misconduct under s. 51(1)(a) of the Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991*, SO 1991, c. 18 and the latter in paragraph 1(1)33 of Ontario Regulation 856/93 under the *Medicine Act, 1991*, SO 1991, c. 30. While they took place outside the practice of medicine, Dr. Parajian's actions affect

patients' ability to confide in and trust Dr. Parajian, as well as the reputation of the profession.

Penalty

Additional Evidence on Penalty

[12] The parties provided two victim impact statements and three character letters that had been filed in the criminal proceedings.

[13] The first victim wrote about how Dr. Parajian's actions left her feeling stressed, sad and scared for the safety of her children and her community. Especially important for this proceeding, she explained how they have affected her views of the medical profession.

I also now find myself being suspicious of doctors & medical professionals—not our family doctor—but when I take my child to a new doctor. I used to have a certain level of trust and respect for that physician simply because they were a medical professional. Now, that pre-established trust is gone. I am anxious and skeptical of anyone who treats my children for the first time. Doctors must earn my trust. I shouldn't have to feel this way. I should be able to trust and respect medical professionals and have faith that they will do what's best for my children, but unfortunately, I can't. The way I perceive physicians has changed dramatically.

[14] In the second victim impact statement, parents wrote about how their "daughter has spent the last 2.5 years looking over her shoulder whenever she is out in our community, always on high alert." At the time of writing the statement, their daughter ran into Dr. Parajian periodically, and they described how this reignited her trauma. (Dr. Parajian has now moved out of the neighbourhood.)

[15] Those who wrote the character letters on Dr. Parajian's behalf were aware of his actions that led to the criminal conviction. The registrant's wife, also a physician, wrote about Dr. Parajian's skills and dedication to his patients as a thoracic surgeon and his kindness and compassion for those close to him. Her opinion of him is unchanged following these events. Two other friends made similar comments, including about his loyalty to and support for those undergoing difficult times.

What is Discipline History?

[16] We turn now to the issue that the parties did not agree on: whether the absence of discipline history is a mitigating factor.

[17] Previous findings against the registrant by the Tribunal (previously the Discipline Committee) are one of the four groups of factors that influence penalty: see *College of Physicians and Surgeons of Ontario v. Fagbemigun*, 2022 ONPSDT 22 at para. 14. When a registrant commits misconduct after going through the discipline process, a stronger sanction is required the next time to emphasize the seriousness of their actions and protect the public. This is also known as progressive discipline. Two of the purposes of discipline penalties are rehabilitation and specific deterrence, and when a registrant is back before the Tribunal, it usually signifies that the previous penalty did not fully achieve these objectives.

[18] This principle does not apply to previous findings of the Inquiries, Complaints and Reports Committee (ICRC). The ICRC does not hold oral hearings or make findings of fact. An ICRC history can show that an issue and the importance of following the College's expectations were brought to the registrant's attention. However, unlike a discipline history, it does not signify that the registrant has repeatedly committed misconduct.

[19] The presence or absence of previous complaints that did not lead to formal action by the ICRC or Tribunal is irrelevant to penalty. What matters is whether complaints led to action by the College. Complaints may or may not be justified, and whether members of the public have made complaints says nothing about the registrant's skills or ethics as a physician.

[20] We note that the principle only applies where the registrant's conduct happened after the previous decision was made. Misconduct after previous discipline is a sign the registrant didn't "get the message" from the penalty. If the events in a later case happened before the previous discipline hearing, that is not the case. In these

circumstances, the prior discipline may be relevant for other purposes, but not to show the need for progressive discipline.

Discipline History: Mitigating or Neutral?

[21] But what if there is no discipline history? The College argues that discipline history is a neutral factor, while the registrant argues that it is a mitigating factor that reduces the severity of the penalty.

[22] The parties were unable to find any Ontario cases that analyzed this question in detail, although they found many cases that stated, without discussion, that it was one or the other. Most, but not all, found it mitigating.

Why We Are Deciding This Issue

[23] The answer to this question would not change our decision on whether the joint submission should be accepted. The difference between the two is subtle. The law requires us to accept the joint submission unless to do otherwise would bring the administration of the professional discipline system into disrepute. We have decided to address it for three main reasons. First, we believe it is symbolically important in articulating the basic expectations of physicians and the seriousness of a discipline history, but it has never been analyzed. Second, the issue comes up often but there will rarely be a case where it is crucial to the outcome. Third, both parties made well-argued and researched submissions, so we have confidence the issue has been fully litigated.

The Case Law

[24] The case law at this Tribunal on the question is inconsistent, with more cases finding the absence of a discipline history mitigating. The registrant identified 27 cases in which it was treated as mitigating, two in which it was treated as neutral and three in which it was given limited weight as a mitigating factor. Most cases simply state a conclusion on the issue. In *College of Physicians and Surgeons of Ontario v. Atallah*, 2020 ONCPSD 38 at p 119?, the panel wrote: “The Committee puts limited weight on this as a mitigating factor as it is expected of physicians that they not be involved in

discipline matters, and because his misconduct was calculated and went on for several years.”

[25] In *Fagbemigun*, the panel summarized and restated the principles of penalty. At para. 14, it described the role of discipline history. It identified it as a factor that could lengthen the penalty when there was explicit misconduct. This description is consistent with it as a neutral rather than mitigating factor, although there was no explicit discussion of this issue.

[26] In other Ontario health discipline tribunals, most cases find the absence of a discipline history mitigating. The Discipline Committees of the colleges of Audiologists and Speech-Language Pathologists, Chiropractors, Dental Hygienists, Dental Surgeons, Massage Therapists, Nurses, Occupational Therapists, Optometrists, Physiotherapists, Registered Psychotherapists, and Traditional Chinese Medicine Practitioners have all found it to be a mitigating factor. The Discipline Committee of the College of Pharmacists has found it to be mitigating and the absence of an aggravating factor in different cases and that of the College of Psychologists has found it mitigating or partially mitigating.

[27] Dr. Parajian argues that the Tribunal should not depart from the conclusion of the majority of panels that have considered this issue. While consistency is an important value, we find it less compelling here for several main reasons. First, there is a significant minority of cases that have gone the other way. Second, there has been no substantive analysis of the issue in any of the cases cited. Third, this is one factor among many and would not likely have changed the outcome in most or all the cases relied upon, particularly given that most were joint submissions. It is therefore less likely than other issues to lead to circumstances where “like are not treated alike.”

[28] We turn now to first principles. The primary purpose of a penalty order is the protection of the public. Part of that is ensuring confidence in the profession by upholding its high standards. In *Fagbemigun*, the panel explained (para. 7):

Several purposes or values should be considered throughout the analysis and underlie the analysis of individual factors. The most important goal of a penalty order is the protection of the public. The public must have confidence in the member, the profession and in the College’s ability to govern the profession in the public interest. Patients place their physical and mental health, their bodies and lives in the hands of physicians. The public expects that every member of the medical profession will protect that trust

by acting in the interests of their patients and the public, upholding the high standards of the profession.

[emphasis added]

Criminal Law Principles

[29] Professional discipline law and procedure have been significantly influenced by the criminal law. But criminal law principles must not be applied automatically or without analysis of their appropriateness in this context. The purposes of professional regulation are different and unlike criminal defendants who may face the loss of their liberty, regulated professionals face the loss of a privilege that is granted to a limited number of people. That is not to minimize the significance of discipline proceedings; penalties can have a devastating impact on registrants, their careers and livelihoods particularly given the work and time to become licensed. But there are fundamental differences in purpose and effect between criminal law and professional regulation.

[30] In criminal law, the absence of a criminal record is a mitigating factor. The main reasons for “giving someone a break” in sentencing when they appear before the courts as first-time offenders are that the person has generally been law-abiding, and it is considered relevant to their potential for rehabilitation. As noted in *R. v. Sandhu*, 2024 ONSC 6778 at para. 94, “the absence of a criminal record suggests that before their offence, an offender had lived a prosocial life, suggesting their offence may be an aberration which reflects positive on their prospects for rehabilitation.”

Absence of Discipline History Should Not Be a Mitigating Factor

[31] The registrant argues that the same rationales apply in professional discipline. He argues that specific deterrence and rehabilitation are important penalty principles and that “Dr. Parajian’s lack of any complaint or discipline history supports the view that his professional misconduct was an aberration, increases his prospects for rehabilitation, and reduces the need for specific deterrence in the circumstances.” [emphasis added]

[32] In our view, the analogy to criminal law is not convincing. Regulated professionals agree to specific obligations and high standards when they join the profession. Members of the public are entitled to expect that physicians are not merely “prosocial” but have adhered to the high standards expected of them. In *Bolton v. The Law Society*, [1993] EWCA Civ 32 at para. 15, the English Court of Appeal explained that if the public cannot

be confident of the professionalism and integrity of each of its members, “the whole profession, and the public as a whole, is injured. A profession’s most valuable asset is its collective reputation and the confidence which that inspires.” These comments apply equally to the medical profession, and this is illustrated by the first victim impact statement in this case.

[33] Registrants choose to accept a greater set of responsibilities when they obtain the privilege of practising a profession. Patients choose to go to physicians and expose themselves physically and emotionally because they expect that doctors have chosen (and are obliged) to uphold high standards.

[34] In our view, to give a professional “a break” in any case because they have not been previously found to have committed misconduct is inconsistent with these principles and sends the wrong message to the public and the profession. Fewer than 30 discipline cases per year currently come to this Tribunal among the approximately 50,000 registrants. Not having been among them is not something that should be seen as worthy of credit. Of course, those without a disciplinary history will still generally receive less severe penalties than those who are disciplined more than once, all else being equal, but that is because repeat misconduct requires stronger sanctions and not because the absence of a discipline history is mitigating. We do not believe that a case-by-case approach in which it may or may not be mitigating would be appropriate, as Dr. Parajian argues.

[35] We find that the absence of a discipline history is a neutral factor on penalty, not a mitigating one. Accordingly, we will not consider it in evaluating the proposed joint submission in this case.

The Proposed Penalty Would Not Bring the Administration of Justice Into Disrepute

[36] The parties’ agreement on penalty and costs must be implemented unless it is so “unhinged from the circumstances” that implementing it would bring the administration of the College’s professional discipline system into disrepute: *R. v. Anthony-Cook*, 2016 SCC 43; *College of Physicians and Surgeons of Ontario v. Bahrgard Nikoo*, 2022

ONPSDT 15 at para. 34; *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303 (Div. Ct.).

[37] Dr. Parajian pleaded guilty in criminal court and admitted the misconduct here, sparing the victims from having to testify and the College the costs of a contested hearing on the masturbation allegation. He has shown insight both by admitting the facts and, through agreeing to the joint submission in a circumstance where revocation was not mandatory, recognizing the seriousness of his misconduct. The character letters speak strongly of Dr. Parajian's commitment as a physician and to the fact that this conduct was an aberration. Through counselling, Dr. Parajian continues to address the issues that led to his actions. These are all mitigating.

[38] Revocation is nevertheless clearly an appropriate penalty given the seriousness of the misconduct and its consequences. Dr. Parajian's actions had a profound impact on the victims he followed and on the adult who witnessed the masturbation incident. Those he followed were children, a particularly vulnerable group. Moreover, the impact could have been even worse. Dr. Parajian was reckless by masturbating in public. Had the children passing by seen him, it would doubtless have seriously impacted them and their families.

[39] Patients come to physicians for protection and healing. The publicity around these incidents has diminished the public's confidence that any physician they visit will care for them and they will be safe in their vulnerable relationships with them. Revocation will help maintain that confidence.

[40] The proposed penalty, together with costs to the College at the standard tariff rate, clearly meets the *Anthony-Cook* test and we accepted the joint submission.

Order

[41] We made the following order:

Penalty

1. The Tribunal requires the registrant to appear before the panel to be reprimanded.
2. The Tribunal directs the Registrar to:

- a. Revoke the registrant's certificate of registration effective March 28, 2025, at 12:01 a.m.

Costs

3. The Tribunal requires the registrant to pay the College costs of \$6000.00 by April 28, 2025.

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Tribunal File No.: 24-018

BETWEEN:

College of Physicians and Surgeons of Ontario

College

- and -

Armen Parajian

Registrant

**The Tribunal delivered the following Reprimand
by videoconference on Thursday, March 27, 2025**

*****NOT AN OFFICIAL TRANSCRIPT*****

Dr. Parajian,

We are deeply disturbed by your commission of a criminal offence relevant to your suitability to practise medicine and disgraceful, dishonourable or unprofessional conduct.

You pled guilty in the Ontario Court of Justice to the offence of criminal harassment by following 13 victims – an adult and 12 children aged 10 to 15. Furthermore, you have admitted today to an additional allegation of public masturbation near young girls.

Physicians are expected to protect the vulnerable and not to recklessly disregard the potential impact of their behaviour. We are dismayed that you took these actions despite the potential consequences. And even though your actions did not occur in your medical practice, they have had a profound impact on the community, your victims, and the medical profession. You have harmed both the public's and the victims' confidence in all physicians.

We take some comfort in that your guilty plea in court and admission of misconduct have spared vulnerable victims from having to re-live their trauma by testifying. We also acknowledge your proactive decision to move out of the community where your actions left people fearful, in shock and afraid for their children.

This reprimand and the revocation of your certificate of registration send a strong message about the seriousness of your actions to the public, the medical profession and to you.