

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Price, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of the patients or any information that could disclose the identity of the patients under subsection 45(3) of the Health Professions Procedural Code (the “Code”), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, as amended.

Subsection 93(1) of the Code, which is concerned with failure to comply with these orders, reads:

Every person who contravenes an order made under ... section 45 ... is guilty of an offence and on conviction is liable,

(a) in the case of an individual to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence; or

(b) in the case of a corporation to a fine of not more than \$50,000 for a first offence and not more than \$200,000 for a second or subsequent offence.

Indexed as: **Ontario (College of Physicians and Surgeons of Ontario) v. Price, 2016
ONCPSD 30**

**THE DISCIPLINE COMMITTEE OF THE COLLEGE
OF PHYSICIANS AND SURGEONS OF ONTARIO**

IN THE MATTER OF a Hearing directed by the Inquiries, Complaints and Reports Committee of the
College of Physicians and Surgeons of Ontario pursuant to Section 26(1) of the **Health Professions
Procedural Code** being Schedule 2 of the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, as
amended.

B E T W E E N:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. IRA MICHAEL PRICE

PANEL MEMBERS:

**DR. P. CHART (CHAIR)
MR. A. RONALD
DR. P. POLDRE
MR. J. LANGS
DR. R. SHEPPARD**

**COUNSEL FOR THE COLLEGE OF PHYSICIANS AND SURGEONS OF
ONTARIO:**

MS. S. SULEVANI

COUNSEL FOR DR. PRICE:

**MS. J. STEPHENSON
MR. T. COURTIS**

INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:

MR. R. COSMAN

PUBLICATION BAN

**Hearing Dates: August 22, 2016
Decision Date: August 22, 2016
Release of Written Reasons: August 30, 2016**

DECISION AND REASONS FOR DECISION

The Discipline Committee (the “Committee”) of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on August 22, 2016. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty and costs order with written reasons to follow.

THE ALLEGATION

The Notice of Hearing alleged that Dr. Price committed an act of professional misconduct:

1. under paragraph 1(1)33 of O. Reg. 856/93, 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.

RESPONSE TO THE ALLEGATION

Dr. Price did not contest the allegation in the Notice of Hearing, 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.

THE FACTS

The following facts were set out in a Statement of Facts and Plea of No Contest that was filed as an exhibit and presented to the Committee:

PART I - FACTS

1. Dr. Ira Michael Price (“Dr. Price”) received an independent practice certificate from the College of Physicians and Surgeons of Ontario (“the College”), with a specialty in emergency medicine, on June 30, 2010. Dr. Price is the medical director of Synergy Health Services Inc. in Hamilton, Ontario, where he provides care to patients being treated with medical cannabis.
2. Patient A sought treatment from Dr. Price for chronic pain with medical cannabis between December 2012 and April 2014. Following an email exchange with Dr. Price in April 2014, in which Patient A requested that his next appointment be rescheduled, Patient A was terminated from Dr. Price’s practice.
3. In late April 2014, the College received a complaint from Patient A that Dr. Price acted unprofessionally while Patient A was his patient, including by being unwilling to accommodate his request to reschedule his appointment and by terminating Patient A from his practice.
4. In response to the complaint, Dr. Price provided details of his interactions with Patient A, some of which were inconsistent with the patient’s descriptions of his appointments with Dr. Price, including Dr. Price’s statement that Patient A refused, during an appointment, to consent to a physical examination. A copy of Dr. Price’s response dated July 4, 2014, enclosing a copy of Patient A’s chart, is attached at Tab “A” of the Statement of Facts and Plea of No Contest.
5. While Patient A denied ever having refused a medical examination by Dr. Price, the medical records provided by Dr. Price supported his version of events as set out in his response letter.
6. In a letter dated April 7, 2015, the College investigator asked Dr. Price whether his chart entries were made contemporaneously to Patient A’s visits, whether all entries were made on the dates indicated, and whether there were any changes, additions or deletions made to any of the chart entries following the date-time of Patient A’s visits.

7. Dr. Price provided his response to the College by letter dated May 13, 2015. Dr. Price stated that “All chart entries made regarding [Patient A]’s visits were made at a time that was contemporaneous to the visits” and “All entries were made on the dates indicated in [Patient A]’s records, and at the same time as the other entries included under each date-entry.” Dr. Price claimed this was consistent with his “regular charting practice.” A copy of Dr. Price’s letter to the College, dated May 13, 2015, is attached at Tab “B” of the Statement of Facts and Plea of No Contest.

8. The College retained a forensic examiner, who concluded that multiple entries in Patient A’s chart were written during different writing episodes from the remainder of the handwriting on that page, including the following:

- The phrase “/day → pt must Show to f/u to keep”, purporting to be written on a date in December 2012, was indented onto a form from a particular date in January 2013, suggesting that the note was written on or after that date in January, 2013; purporting to be written on a date in December 2012, was indented onto a form from a particular date in January 2013, suggesting that the note was written on or after that date in January, 2013;
- The phrase “, discussed pain Scale Score to be 20”, purporting to be written on a date in early April 2013, was written in a different writing episode than the rest of the handwriting on the Progress Notes from the same date in early April 2013. The entry was indented onto a document that was printed on a date in late April 2013, indicating that the note was written on or after that date in late April 2013;
- The phrases “1yr”, “no renewal”, “Refusing exam.” and “, May have to D/C licence if this continues”, purporting to be written on a date in January 2014, were written in different writing episodes than the rest of the handwriting in the Follow-up Report dated that day in January 2014;
- The phrase “— Secretary feels threatened by conversation”, purporting to be written on a date in April 2014, was written in a different writing episode than the rest of the note from that same date in April 2014.

A copy of the forensic report of Brian Lindblom dated February 12, 2015 is attached at Tab “C” of the Statement of Facts and Plea of No Contest.

9. In a letter dated May 19, 2015, the College investigator enclosed the forensic report and requested Dr. Price’s comments on it.

10. Dr. Price provided his response to the College by letter dated July 3, 2015. Dr. Price does not dispute the forensic conclusions reached by Mr. Lindblom. In his response, Dr. Price advised the College, for the first time, of the following:

- (a) He frequently writes chart notes in different sittings and with different pens;
- (b) It is often the case that chart entries are not fully completed at the end of the appointment;
- (c) It is his practice to make additions to his charts when doing dictations, performing chart audits, and during subsequent visits;
- (d) He is sometimes unable to complete his charting until “a couple weeks” after appointments or within a “reasonable time period” thereafter;
- (e) He often brings his patient charts home to complete his charting;
- (f) Entries are made from different locations at different times;
- (g) He is present at the medical cannabis clinic only on Mondays and uses the rest of the week to complete chart entries;
- (h) He cannot recall when he completed the entries in Patient A’s chart;
- (i) He may have backdated his notes in Patient A’s chart;
- (j) He may have written “, discussed pain Scale Score to be 20”, purporting to be written on a date in early April 2013 after he received the late April 2013 document;

- (k) He would have written the phrase “— Secretary feels threatened by conversation”, purporting to be written on a date in mid-April 2014, on the next day or later;
- (l) He may have written the phrases “1yr”, “no renewal”, “Refusing exam.” and “, May have to D/C licence if this continues”, purporting to be written on a date in mid-January 2014, weeks after mid-January 2014.

PART II – NO CONTEST

11. Dr. Price does not contest the facts in paragraphs 1 to 10 above and does not contest that he engaged in acts or omissions relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act*, 1991, including by:

- (a) Altering a medical record in a misleading fashion and failing to date and initial the changes; and
- (b) Misleading a College investigator regarding his patient chart and charting practices during a College investigation.

FINDING

With a pleading of no contest to the allegations of professional misconduct, there are certain legal consequences that follow by virtue of the Rules of the Discipline Committee. When there is a plea of no contest, the member consents to the following:

- a) that the Discipline Committee can accept as correct the facts alleged against the member on that allegation for the purposes of College proceedings only.
- b) that the Discipline Committee can accept that those facts constitute professional misconduct or incompetence, or both, for the purposes of College proceedings only.

- c) that the Discipline Committee can dispose of the issue of what finding ought to be made without hearing evidence.

The Committee accepted as correct all of the facts set out in the Statement of Facts and Plea of No Contest. Having regard to these facts, the Committee accepted Dr. Price's admission and found that he 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.

Those findings include altering a medical record in a misleading fashion, failing to date and initial the changes, and misleading a College investigator regarding his patient chart and charting practices during a College investigation.

JOINT SUBMISSION ON PENALTY AND COSTS

Counsel for the College and counsel for the member made a joint submission as to the appropriate penalty and costs order. The Committee was mindful that a joint submission should be accepted unless to do so would be contrary to the public interest and would bring the administration of justice into disrepute.

The joint penalty submission included a three-month suspension and the following terms, conditions and limitations on Dr. Price's certificate of registration:

Education

- (a) Dr. Price must successfully complete, at his own expense, the first available courses acceptable to the College in ethics and medical record keeping, within four months of the date of the Order.

Recordkeeping

- (b) Dr. Price will obtain and use as his only medical recordkeeping system in all his office-based Practice Locations in Ontario, an Electronic Medical Recordkeeping

(“EMR”) System acceptable to the College within six months of the date of the Order.

Other

- (c) Dr. Price shall comply with the College 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 Appendix “A” to the Order.
- (d) Dr. Price shall inform the College of each and every location where he practices, in any jurisdiction (his “Practice Location(s)”) within fifteen days of the Order, and shall inform the College of any and all new Practice Locations within fifteen days of commencing practice at that location.
- (e) Dr. Price shall submit to, and not interfere with, unannounced inspections of his Ontario Practice Location(s) and to any other activity the College deems necessary in order to monitor his compliance with the provisions of the Order.
- (f) Dr. Price 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 the Order.
- (g) Dr. Price shall be responsible for any and all costs associated with implementing the terms of the Order.

It was also part of the joint submission that Dr. Price appear before the panel to be reprimanded, and that he pay costs to the College in the amount of \$5,000.00 within thirty days of the date the Order becomes final.

General Principles Relating to the Determination of Penalty

The Committee considered the principles related to the determination of penalty and found that they were addressed in the joint submission.

The Committee expressed its abhorrence of Dr. Price's behaviour by means of the three-month suspension and the reprimand.

Protection of the public, specifically the protection of current and future patients, is achieved with the stipulation that mandates the use of an electronic medical recordkeeping system. Dr. Price will be expected to comply with the College Policy on Practice Management while on an extended leave, thus protecting his current patients. The public will be protected in the future by the College's monitoring of Dr. Price's compliance with unannounced inspections of his practice locations and by making enquiries of the Ontario Health Insurance Plan and other persons or institutions.

The penalty will serve to maintain public confidence in the integrity and reputation of the profession by demonstrating that Dr. Price's behaviour was completely unacceptable. The public will see that the penalty demonstrates the medical profession's capacity, through its regulatory authority, the College, to self-govern in the public interest.

The penalty will serve as general deterrence to the medical profession by emphasizing the seriousness of medical recordkeeping and especially the steps that must be taken (dating and initialing) when additions or alterations are made to a medical record. Furthermore, the penalty emphasizes that misleading a College investigation is a very serious matter. It makes clear to the profession that the privilege of self-governance brings with it the requirement for physicians to be honest and forthright with the College during an investigation.

The penalty will serve as specific deterrence to Dr. Price. The three-month suspension and the reprimand convey the seriousness of the misconduct he has engaged in.

The penalty also provides the opportunity for Dr. Price to rehabilitate his behaviour for his future practice. The ethics and medical recordkeeping courses will provide a formal

framework for dealing with his unprofessional behaviour. The electronic medical recordkeeping system that he must use in the future will enhance his recordkeeping. The ongoing compliance monitoring will provide feedback to him and the College about his recordkeeping practices.

Aggravating Factors

The Committee considered the aggravating factors when reviewing the joint submission on penalty.

Dr. Price was the subject of a Registrar's investigation in 2012 regarding a failure to meet the medical recordkeeping policy. He completed a course on medical recordkeeping in 2013. The Investigations, Complaints and Reports Committee issued a written caution to Dr. Price in 2014. The Committee noted with dismay that shortly after receiving that written caution, inappropriate chart alterations were done with respect to the matter currently before the Committee.

The Committee also noted that chart alterations were done deliberately to mislead College investigations. This is a significant aggravating factor, as it undermines the integrity of the profession and the ability of the profession to regulate itself.

Mitigating Factors

The Committee acknowledged that by his plea of no contest, Dr. Price spared the complainant patient and other witnesses the need to testify and reduced the time and costs of a contested hearing.

Review of Other Cases

Counsel for the College provided the Committee with two earlier cases, *CPSO vs. Dr. Zhuk* (2003) and *CPSO vs. Dr. Fiorollo* (2006). Both cases involved deliberate chart alterations and resulted in reprimands, ethics courses, costs and suspensions of three months, with suspension of the suspensions if the prescribed ethics courses were completed. Counsel for the College noted that while such suspensions of suspensions on

terms occurred in the past, they are not currently used in the penalty dispositions sought from the Discipline Committee.

Counsel for Dr. Price agreed that the length of the suspension was appropriate. A large number of earlier cases had been reviewed and the two presented to the Committee were felt to be the most instructive for the Committee's consideration.

ORDER

The Committee stated its finding of professional misconduct in paragraph 1 of its written Order of August 22, 2016. On the matter of penalty and costs, the Committee ordered and directed in that Order that:

2. The Registrar suspend Dr. Price's certificate of registration for a period of three (3) months, to commence at 12:01 a.m. on September 1, 2016.
3. The Registrar impose the following terms, conditions and limitations on Dr. Price's certificate of registration:

Education

- (a) Dr. Price must successfully complete, at his own expense, the first available courses acceptable to the College in ethics and medical recordkeeping, within four (4) months of the date of this Order.

Recordkeeping

- (b) Dr. Price will obtain and use as his only medical recordkeeping system in all his office-based Practice Locations in Ontario, an Electronic Medical Recordkeeping ("EMR") System acceptable to the College within six (6) months of the date of this Order.

Other

- (c) Dr. Price shall comply with the College 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 Appendix “A” to this Order.
 - (d) Dr. Price shall inform the College of each and every location where he practices, in any jurisdiction (his “Practice Location(s)”) within fifteen (15) days of this Order, and shall inform the College of any and all new Practice Locations within fifteen (15) days of commencing practice at that location.
 - (e) Dr. Price shall submit to, and not interfere with, unannounced inspections of his Ontario Practice Location(s) and to any other activity the College deems necessary in order to monitor his compliance with the provisions of this Order.
 - (f) Dr. Price 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.
 - (g) Dr. Price shall be responsible for any and all costs associated with implementing the terms of this Order.
4. Dr. Price appear before the panel to be reprimanded.
 5. Dr. Price pay costs to the College in the amount of \$5,000.00 within thirty (30) days of the date this Order becomes final.

At the conclusion of the hearing, Dr. Price waived his right to an appeal under subsection 70(1) of the Code and the Committee administered the public reprimand.

TEXT of PUBLIC REPRIMAND

Delivered August 22, 2016 in the case of the

COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO

And

DR. IRA MICHAEL PRICE

THE CHAIRPERSON: This Committee is frankly stunned by your misconduct. You are a young physician in the early years of practice, yet you have been cautioned by the Inquiries, Complaints and Reports Committee and now you find yourself subject to a Discipline finding.

While record-keeping is a part of your misconduct, the courses you have done and will complete will only set the expectations. It is up to you to integrate what you learn into practice. You need to recognize the need for accuracy in charting, including precise dating of chart entries and initialling where appropriate. Given the facts accepted in this matter, you have to attend to this very carefully in the future.

The Committee has concerns that there are serious underlying issues, including a lack of respect for your governing body. The College relies on the honesty of its members in achieving self-governance. Any failure to be completely honest with the College in its investigative process undermines professional regulation and the public's confidence in the profession.

Our advice to you is to be extremely mindful of what has happened here today. We hope not to see you here ever again.

This is not an official transcript