

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Citation: *College of Physicians and Surgeons of Ontario v. Steinberg*, 2024 ONPSDT 24

Date: November 5, 2024

Tribunal File No.: 23-019

BETWEEN:

College of Physicians and Surgeons of Ontario

College

- and -

Jeffrey Martin Steinberg

Registrant

FINDING AND PENALTY REASONS

Heard: September 20, 2024, by videoconference

Panel:

Sherry Liang (panel chair)

Jose Cordeiro (public)

Markus de Domenico (public)

Stephen Hucker (physician)

Janet van Vlymen (physician)

Appearances:

Robin Goldberg and Penelope Ng, for the College

Stephen Ronan, for the registrant

RESTRICTION ON PUBLICATION

Pursuant to Rule 2.2.2 of the OPSDT 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. There may be significant fines for breaching this restriction.

Introduction

[1] Dr. Steinberg rented residential space to a patient and, after disputes arose over the tenancy, threatened to withhold prescriptions and improperly terminated the physician-patient relationship. After the termination of the relationship, he sent her multiple inappropriate and unprofessional emails, including some containing derogatory and profane language and tried to dissuade her from pursuing a complaint against him.

[2] The registrant hired another patient to work for him in connection with his properties and threatened to withhold medications from the patient and the patient's parents after a business conflict arose. He also terminated the physician-patient relationship with these three patients in an improper manner.

[3] Lastly, the registrant yelled rudely at another patient, in a manner loud enough to be heard by a pharmacist in the same building.

[4] The registrant admitted and we find that he engaged in professional misconduct under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act*, 1991, SO 1991, c. 30, by engaging in actions relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional and paragraph 1(1)34 by engaging in conduct unbecoming a physician.

[5] We accept the parties' joint submission and order an eight-month suspension of the registrant's certificate of registration, a reprimand and individualized instruction in medical ethics, professionalism, and communication. We also direct the registrant to pay the College \$6,000 in costs.

Patient A

[6] The parties provided us with an Agreed Statement of Facts on which we based our findings. The registrant practises family and walk-in medicine at a clinic in Toronto. Patient A was the registrant's long-term patient for about 30 years. She had multiple chronic health issues and saw the registrant frequently. He prescribed medications for her chronic conditions.

[7] While Patient A was still the registrant's patient, he agreed to rent residential premises to her. After Patient A moved in, issues arose between her and the registrant

with respect to the landlord/tenant relationship, including payment of rent and the condition of the property.

[8] The registrant told the College that he verbally advised Patient A in early 2021 that she needed to find a new family doctor because of the issues in the tenancy but he did not make a note of this discussion. He did not see her as a patient after May 2021. Below, we provide excerpts from texts and emails the registrant sent to the patient. All spelling and grammar is as it appears in the original.

[9] In June 2021, the registrant sent an email to Patient A that said,

You haven't paid me in 6 weeks time for you you to go. Otherwise I will not ok any further prescriptions and have

[10] The registrant sent Patient A a further email on the same date stating:

Find a new Dr,

[11] In July and September of 2021, Patient A obtained prescriptions from the registrant's colleague at the clinic but did not return to the clinic after September 2021. Since the registrant terminated the physician-patient relationship, Patient A has not been able to find a new family doctor. She sees a nurse practitioner.

[12] After the termination of the physician-patient relationship, the registrant and Patient A continued to have issues in relation to their landlord-tenant arrangement. Ultimately, the Landlord and Tenant Board (LTB) made an Order on consent of the parties requiring Patient A to leave the rental property.

[13] Before and after the LTB Order, the registrant sent multiple emails and text messages to Patient A stating, among other things:

Yo-yo. Let me ask you this 1 why no one in your family talks to you² if the house burns down maybe you will be in it. Thank the lord for small mercies. You are a born loser**

....

I'm going to call animal control. Because everyone considers you a 2 legged RODENT

....

I will put holes in the tire...next time I will put break the windows...DUMB ASS

Fuck off...

....
Go F yourself

...
F U

I don't know what association your calling. If it's medical I will relapse all your files to them., I discharged you a year ago. See what is going to happen to you
The medical association has nothing to do with this...
LOST again. Keep trying bag lady...

....
I will destroy you financially and emotionally
What you going to do when I come after you
Yo yo is the perfect name for you. Your daughter hates you .
Your twin sister hates you
. No one wants to talk to you. What a shame that you still exist

....
I will release your entire file to who ever asks for it. A lot of interesting info to read.

[14] After Patient A complained to the College in July 2022 about the registrant and the College notified him about the complaint, the registrant sent Patient A a text message that said, among other things,

You owe me 11k. I will let collection agency handle it
All your psychiatric history and drug history will be sent to them.
Your a crackpot
...
You now report me to OMA . You live with the consequences of your actions...

[15] The registrant then sent an email to Patient A that said, "I advise you to reconsider your complaints to the college," to which Patient A responded, "if that what you want I will not continue...I will not sign the forms..."

[16] Shortly after, the registrant sent an email to a College investigator's assistant stating that the patient had contacted him and did not want to continue with any complaints. When the College requested clarification from him, he sent a text message to Patient A that said, "OMAWants to know about your complaint I suggest you deal with it."

[17] Following correspondence between the College investigator and Patient A, the investigator sent an email to the registrant advising him to immediately cease contacting Patient A in relation to her complaint.

The registrant's actions towards Patient A were disgraceful, dishonourable or unprofessional

[18] The registrant admits and we find that his actions towards Patient A contravened the College's policies on Boundary Violations and Ending the Physician-Patient Relationship and were disgraceful, dishonourable or unprofessional. The College's policy on Boundary Violations states, among other things, that "[p]hysicians must establish and maintain appropriate boundaries with patients at all times, including with respect to social or financial/business matters and must not exploit the power imbalance inherent in the physician-patient relationship." It also requires that physicians consider the impact on the physician-patient relationship when engaging with a patient in a non-clinical context.

[19] The registrant contravened this policy when he allowed his landlord-tenant relationship with Patient A to affect the physician-patient relationship, to the patient's detriment. He initiated the termination of a longstanding physician-patient relationship over the tenancy issues. Rather than refraining from exploiting the power imbalance inherent in the physician-patient relationship, he actively sought to use his position as Patient A's physician to his advantage in the tenancy dispute, threatening to withhold further prescriptions and to disclose her health information to third parties.

[20] The registrant also contravened the College's policy on Ending the Physician-Patient Relationship. This policy requires, among other things, that physicians provide patients with written notification when ending the physician-patient relationship. It also requires that, before ending the relationship, the physician make efforts to resolve the situation in the best interests of the patient. The registrant improperly advised Patient A verbally of the termination of the physician-patient relationship. His actions also made apparent that he did not have regard to the best interests of the patient in the manner in which he terminated that relationship.

[21] The registrant's behaviour as described above was disgraceful, dishonourable or unprofessional. He also behaved disgracefully, dishonourably or unprofessionally when he attempted to dissuade Patient A from continuing with her complaint to the College.

The registrant's conduct towards Patient A was unbecoming a physician

[22] "Conduct unbecoming" is intended to capture conduct outside the practice of the profession where such behaviour reflects on a physician's integrity and reflects negatively on the reputation of the profession.

[23] The registrant engaged in conduct unbecoming a physician when he sent rude, demeaning and profane emails to Patient A after the termination of the physician-patient relationship and in the context of the ongoing tenancy dispute. His conduct reflects poorly on his integrity and has the potential to negatively affect the reputation of the profession.

Patients B, C and D

[24] Patients B, C, and D were the registrant's long-term patients for over 15 years. Patient B is the adult son of Patients C and D. Patient B saw the registrant almost monthly for medical care and relied on him for his prescriptions. At the relevant time, Patient C was over 80 years old and had multiple chronic health conditions that the registrant had to follow closely. Patient C saw the registrant almost monthly and relied on him to prescribe multiple necessary medications.

[25] Patient B is a contractor in the construction industry. Over several years, the registrant engaged Patient B to do work on properties the registrant owned.

[26] In early 2022, the registrant asked Patient B to sign a form in connection with their business dealings. Following this, the registrant had a text exchange with Patient B in which he told the patient, among other things, that he would withhold medications from Patient B's family until the form was signed. There is no evidence that the registrant withheld medications from Patients B, C or D.

[27] Patient B complained to the College about the registrant's conduct. The registrant told the College that he regretted sending the text and would never withhold treatment from a patient. He sent letters to Patients B, C and D terminating the physician-patient relationship on the basis that the complaint had resulted in a breakdown of the relationship. A few weeks later, he authorized a prescription for Patient C and wrote on the authorization:

Tell pt I will not represcribe again

Find a new Dr

[28] Patient B reported to the College that he had issues finding a new family physician for himself and Patients C and D.

The registrant's actions towards Patient B, C and D were disgraceful, dishonourable or unprofessional

[29] As with Patient A, we find the registrant's actions towards Patient B, C and D were disgraceful, dishonourable or unprofessional.

[30] The parties agree and we find that his actions described above were contrary to the College's policies on Boundary Violations and Ending the Physician-Patient Relationship. He contravened the College's policy on Boundary Violations by entering into a business relationship with a patient and then exploiting his position as a physician to try to gain an advantage in that relationship. He improperly threatened to withhold medications from Patient B's family in the course of the business dispute. The manner in which he ended the physician-patient relationship with these three patients contravened the College's policy on ending such a relationship in that, among other things, he did not make prior efforts to resolve the situation in the best interests of the patients. We find his conduct disgraceful, dishonourable or unprofessional.

Patient E

[31] Patient E began seeing the registrant in mid-2022. In one of their clinical encounters, he spoke to her in a rude manner, stating, after asking and receiving an answer to a question: "was it too difficult for you to understand a simple question?"

[32] Immediately after this appointment, Patient E went to refill a prescription at a pharmacy located on the same floor as the registrant's medical clinic. Patient E realized that the dosage was incorrect and returned to the registrant's office to request a change to the prescription. In response to Patient E's request, the registrant yelled, "is this hard for you to understand? Am I speaking a different language?" and "Listen to me, what do you want? 100 or 50?"

[33] From the pharmacy, the pharmacist heard the registrant screaming at Patient E. The registrant corrected the prescription as requested. Patient E was upset and crying as a result of the registrant yelling at her.

The registrant's actions towards Patient E were disgraceful, dishonourable or unprofessional

[34] The parties agree and we find that the registrant's actions toward Patient E contravened the College's policy on Physician Behaviour in the Professional Environment. This policy requires, among other things, that a registrant act in a respectful, courteous and civil manner towards their patients. The registrant used demeaning language in a raised voice towards Patient E. These communications were far from respectful, courteous and civil. We find that his conduct towards Patient E was disgraceful, dishonourable or unprofessional.

Penalty and Costs

[35] The parties made a joint submission on penalty, agreeing that the registrant should receive a reprimand, eight-month suspension and be required to take individualized instruction in medical ethics, professionalism, and communication satisfactory to the College, with an instructor approved by the College.

[36] The parties' agreement on penalty 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: see *R. v. Anthony-Cook*, 2016 SCC 43 and *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303. We are satisfied that the proposed penalty is not contrary to the public interest in this manner.

[37] The most important goal of a penalty order is the protection of the public. The public must have confidence in the registrant, the profession and the College's ability to govern the profession in the public interest. Other penalty goals that support protection of the public include discouraging the registrant and other physicians from committing misconduct (specific and general deterrence), rehabilitating the physician, ensuring a safe return to practice where appropriate and expressing the Tribunal and the profession's disapproval of the misconduct (*College of Physicians and Surgeons of Ontario v. Fagbemigun*, 2022 ONPSDT 22 at paras. 7-8).

[38] In assessing which penalty best achieves these purposes, relevant factors include the seriousness of the misconduct, any discipline history, the registrant's actions since the misconduct and their personal circumstances. Penalties ordered in other cases are also important, in that penalties in similar circumstances should be similar and, where they diverge, there should exist a principled basis for the difference.

[39] The registrant's behaviour was a serious breach of his professional obligations towards his patients and weighs in favour of a substantial penalty. Rather than acting in the best interests of his patients, he sought to exploit the power imbalance in the physician-patient relationship to extract advantages in non-clinical dealings with them. While there is no evidence that he withheld treatment from his patients, the very threat to do so, in the context of those dealings, is a serious matter. The registrant's boundary violations demonstrate the very mischief the College's policy is meant to prevent, in that his engagement with patients in a non-clinical context had a detrimental impact on the physician-patient relationships.

[40] Also serious were the highly unprofessional communications with his patients. He subjected Patient A to vulgar, demeaning and threatening texts and emails and berated Patient E in an aggressive, derogatory manner.

[41] The cases the parties provided us in which the misconduct included boundary violations or rude and demeaning communications with patients resulted in suspensions ranging from 3 to 6 months. Although each of those cases has its own set of unique facts, they show that the penalty proposed here is not outside of a reasonable range of penalties for similar misconduct. This case involved both of these types of misconduct, multiple patients and breaches of College policies.

[42] The registrant's discipline history includes a finding in 2023 that he engaged in conduct that members of the profession would reasonably regard as disgraceful, dishonourable or unprofessional, based on his violation of professional boundaries. Since that decision postdates the events at issue in this case, we do not give it much weight. However, it is relevant that the College's Complaints Committee twice counselled the registrant about the need to be respectful and professional in his communications. The registrant was well aware of the importance of complying with this expectation.

[43] The registrant's actions since the misconduct weigh in his favour. He has taken responsibility for his actions by admitting the facts and allegations, thus sparing the complainants the need to testify and the parties and Tribunal the time and expense of a contested hearing.

[44] The parties made submissions on the appropriateness of a reprimand in the circumstances of this case. We accept their submission that a reprimand serves the goal of public protection. It will be published on the public register and in this manner will act

as a general deterrent, signalling that this kind of conduct will have serious consequences. A reprimand will also allow the panel to speak directly to the registrant to express its disapproval of his conduct and remind him of his professional responsibilities. Finally, the order to undertake individual instruction in medical ethics, professionalism and communication will also serve the goal of public protection, by supporting rehabilitation.

[45] In sum, we find that the proposed penalty protects the public and is not so “unhinged from the circumstances” that implementing it would bring the administration of the College’s professional discipline system into disrepute. We also accept the parties’ agreement that the registrant pay the College \$6,000 in costs.

[46] We ordered:

1. the registrant to appear before the panel to be reprimanded
2. the Registrar to:
 - a. suspend the registrant’s certificate of registration for eight (8) months commencing September 21, 2024 at 12:01 a.m.
 - b. place the following terms, conditions and limitations on the registrant’s certificate of registration, effective immediately:
 - i. Dr. Steinberg shall participate in and successfully complete, at his own expense and within six (6) months of the date of this Order, individualized instruction in medical ethics, professionalism, and communication satisfactory to the College, with an instructor approved by the College, who shall provide a summative report to the College including whether Dr. Steinberg successfully completed the instruction.
3. the registrant to pay the College costs of \$6,000 by October 21, 2024. Payment terms are subject to future agreement between the registrant and the College.

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Tribunal File No.: 23-019

BETWEEN:

College of Physicians and Surgeons of Ontario

College

- and -

Jeffrey Martin Steinberg

Registrant

**The Tribunal delivered the following Reprimand
by videoconference on Friday, September 20, 2024.**

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

Dr. Steinberg,

We have found that you committed disgraceful, dishonourable, and unprofessional conduct and conduct unbecoming a physician. You failed to maintain appropriate boundaries and your conduct and communication with several patients were highly unprofessional.

For instance, you failed to maintain appropriate boundaries when renting an apartment to a patient. When a dispute arose, you threatened to withhold prescriptions and sought to end the physician-patient relationship in an inappropriate manner. After terminating the relationship, you continued to use demeaning and degrading language towards her.

You once again failed to maintain appropriate boundaries by hiring another patient to work on your property and, when you wanted a form signed, you threatened to withhold medication refills for this patient and their family members. You then inappropriately terminated the physician-patient relationship with this patient and their family members, who had been under your care for 15 years, in a manner that breached the College Policy on Ending the Physician-Patient Relationship. Among other things, you failed to provide interim care and did not attempt to resolve issues in the best interests of your patients.

The misconduct we have found that you engaged in is dishonourable and reflects very badly on you. Given your prior history before the ICRC, issues pertaining to your professionalism and conduct with patients have previously been brought to your attention. Physicians hold a position of power and authority in our society, and we enjoy

considerable autonomy in practising our profession. In return, we have a responsibility to act ethically and, in our patients' best interests.

We expect that your significant suspension will serve as a deterrent against any future misconduct. It will also send a strong message to all physicians that the College takes such misconduct very seriously. We expect that after completing your suspension and individualized training, you will fulfill your future obligations with professionalism, ethics, and integrity. We do not want to see you back before this Tribunal again.