

**SUMMARY of the Decision of the Inquiries, Complaints and Reports Committee  
(the Committee)**  
(Information is available about the complaints process [here](#) and about the Committee [here](#))

**Dr. Wendy Wing Sze Yiu (CPSO #65561)  
(the Respondent)**

## **INTRODUCTION**

The Respondent (Psychiatry) conducted a third-party assessment of the Patient's financial and testamentary capacity, at the request of counsel for one of the Patient's family members. During the course of completing the assessment, the Respondent agreed to be an alternate attorney under a Power of Attorney (POA) for Personal Care for the Patient. After the Patient's death, there was litigation about the Patient's estate; the Respondent testified at the trial as a participant expert.

The Complainant, another member of the Patient's family, contacted the College of Physicians and Surgeons of Ontario (the College) to express concerns about the Respondent's conduct.

## **COMPLAINANT'S CONCERNS**

**The Complainant is concerned that:**

- **Subsequent to the capacity assessment that the Respondent conducted for the Patient, the Respondent breached boundaries by becoming an attorney for personal care for the Patient.**
- **The Respondent was having a relationship with the opposing counsel, which the Complainant sees as a conflict of interest.**

## **COMMITTEE'S DECISION**

A Mental Health Panel of the Committee considered this matter at its meeting of February 9, 2021. The Committee required the Respondent to attend at the College to be cautioned in person with respect to maintaining professional boundaries. The Committee also requested that the Respondent provide the Committee with a written report with respect to professional boundaries and expectations in the role of the third-party report provider, including a review of the College policy, *Third Party Reports*.

## **COMMITTEE'S ANALYSIS**

*Concern that subsequent to the capacity assessment that the Respondent conducted for the Patient, the Respondent breached boundaries by becoming an attorney for personal care for the Patient*

There was no dispute about the fact that the Respondent agreed to be an alternate attorney for personal care for the Patient. The Respondent stated that with the benefit of hindsight, she could see that this might give rise to a perception of a conflict of interest. She expressed regret and advised that she would not do it again.

The Committee noted it would be a breach of professional boundaries for a physician to consider taking on the role of attorney for personal care for a patient even in the course of an existing clinical relationship, but it was all the more concerning that the Respondent did so in the midst of an independent medical examination (IME), which is intended to be an arms-length process. The Committee regarded this as a serious lapse in judgement, no matter how well intended. The Committee decided to caution the Respondent, as set out above, including asking her to prepare a written report.

The Committee took no further action on the concern that the Respondent was having a relationship with the opposing counsel.