

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Citation: *College of Physicians and Surgeons of Ontario v. Mulji*, 2024 ONPSDT 20

Date: July 29, 2024

Tribunal File No.: 24-001

BETWEEN:

College of Physicians and Surgeons of Ontario

College

- and -

Amin Shaukatali Mulji

Registrant

FINDING AND PENALTY REASONS

Heard: June 26, 2024, by videoconference

Panel:

Sophie Martel (panel chair)
Markus de Domenico (public)
Joanne Nicholson (physician)
Rob Payne (public)
Janet van Vlymen (physician)

Appearances:

Simmy Dhamrait-Sohi, for the College
Matthew Dale, for the registrant

Introduction

[1] Dr. Mulji is a cardiologist in Hamilton. On April 20, 2022, he was convicted of assault and of uttering threats in relation to his intimate partner, contrary to ss. 266 and 264.1(2) of the *Criminal Code*, RSC 1985, c. C-46.

[2] Prior to that conviction, Dr. Mulji had been charged with several criminal offences and subject to bail conditions, which he did not report to the College on a timely basis. He also provided false information on his annual registration renewal reports.

[3] At the hearing, Dr. Mulji admitted professional misconduct. Relying on his admission and an agreed statement of facts, we found that Dr. Mulji committed professional misconduct by engaging in behaviour that was disgraceful, dishonourable or unprofessional, being found guilty of an offence that is relevant to his suitability to practise, and engaging in conduct unbecoming a physician.

[4] The parties jointly submitted that the penalty should be a reprimand, an eight-month suspension and the successful completion of the PROBE Ethics & Boundaries Program.

[5] We accepted the proposed penalty, concluding that it did not bring the administration of physician regulation into disrepute and was not otherwise contrary to the public interest. We also ordered costs of \$6,000, as agreed by the parties.

[6] These are our reasons.

Professional Misconduct

Failure to report

[7] Dr. Mulji was first arrested and charged by two different police forces with assault and uttering death threats in February 2018. He was released with various conditions. He did not report these charges and bail conditions until May 27, 2018, when he completed his annual registration renewal report.

[8] On June 29, 2018, the College sent Dr. Mulji a letter confirming that it was aware of his criminal charges and advising that he was required to report any variation to the charges, any new charges as well as the disposition of the charges. On July 13, 2018, a

College investigator spoke to Dr. Mulji by phone and advised that he was required to update the College on any changes to his charges and/or bail conditions.

[9] In July 2018, Dr. Mulji was charged with another count of assault and released on an undertaking to a peace officer with conditions. In November 2018, Dr. Mulji was charged with a further count of assault (incident date of October 1986), one count of sexual assault (incident date of January 1999 – December 2003) and one count of sexual intercourse without consent (incident date of November 1977). Dr. Mulji did not report these additional charges. Furthermore, on his 2019 annual registration renewal report, completed on June 1, 2019, Dr. Mulji falsely answered, “no,” to the questions asking whether he was subject to conditions of release not previously reported to the College and whether there had been variations or additions to conditions of release previously reported to the College. In both his 2019 and 2020 annual registration renewal reports, Dr. Mulji acknowledged his obligation to promptly notify the College if he was charged with any offence or subject to any conditions of release.

[10] In March 2021, Dr. Mulji was charged with two counts of failing to comply with conditions of bail order and one count of failing to comply with conditions of his undertaking. As a result of these charges, he was subject to further conditions of release. Dr. Mulji did not report the March 2021 charges and conditions to the College. Furthermore, on his 2021 annual registration renewal form, completed on May 28, 2021, he falsely answered, “no,” to the following three questions:

D1a. Since April 1, 2020, have you been charged with, and/or found guilty of, any offence in Canada or elsewhere? (Include all offences under the Criminal Code of Canada, the Controlled Drugs and Substances Act, the Food and Drugs Act, the Health Insurance Act, and/or related legislation in any province. In addition, include any other offences related to the practice of medicine.)

The College is required by law to enter in the public register current charges and guilty findings (made on or after June 1, 2015) under the Criminal Code of Canada or Health Insurance Act, as well as every finding of professional negligence or malpractice, unless the finding is reserved on appeal.

D1b. Are you subject to any conditions of release (“bail conditions”) not previously reported to the College?

D1c. Have there been variations or additions to any conditions you have previously reported to the College?

[11] The College was unaware of all the new charges and bail conditions and unable to post them on the public register of its website as required.

Finding of guilt and conviction

[12] On April 20, 2022, Dr. Mulji pled guilty to one count of assault under s. 266 of the *Criminal Code* and one count of uttering threats under s. 264.1(2) of the *Criminal Code* in relation to his intimate partner.

[13] Dr. Mulji admitted guilt based on an agreed statement of facts, which included information about the marital relationship and the facts underlying the assault and the threats, as summarized below.

- Dr. Mulji and his spouse were married 34 years and had adult children. Dr. Mulji left the matrimonial home in 2015 and the spouses lived separately afterward.
- On February 16, 2018, Dr. Mulji was arrested and charged with uttering a threat to cause death in relation to an incident that occurred on August 20, 2017. He was released on an undertaking with conditions.
- In February and November 2018, the spouse provided statements to police outlining various incidents that occurred throughout the marriage. In particular, she disclosed an assault that occurred in 2014. On July 8, 2014, Dr. Mulji and his spouse argued during which Dr. Mulji hit his spouse over the head with his hand. She suffered a head injury, attended the hospital emergency department and was diagnosed with a concussion.
- Concerned for her safety, the spouse started recording conversations with Dr. Mulji, which she provided to the police. On April 15, 2017, she recorded two conversations in which Dr. Mulji threatened to kill her. On September 24, 2017, she recorded a conversation in which Dr. Mulji swore at her and said that he wished he could kill her.

[14] Following his guilty plea, on April 29, 2022, Dr. Mulji received a suspended sentence with two years of probation and ancillary terms.

Professional misconduct findings

[15] We rely on the agreed statement of facts and Dr. Mulji's admission of professional misconduct.

[16] The criminal convictions of assault and uttering death threats are relevant to Dr. Mulji's suitability to practise medicine. Criminal findings of assault in an intimate partner violence context are relevant to a registrant's suitability to practise because such conduct displays poor judgment, lack of self-control and the capacity for violent acts, which is contrary to the values of caring, protecting and healing of the health profession: *Dr. Jha v. College of Physicians and Surgeons of Ontario*, 2022 ONSC 769 at para. 121. The criminal convictions are also conduct unbecoming a physician.

[17] Dr. Mulji's failure to report his charges and release conditions to the College on a timely basis and his false answers on more than one annual registration renewal report is conduct that would reasonably be regarded by members of the profession as disgraceful, dishonourable or unprofessional. Section 85.6.4 of the Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act*, 1991, SO 1991, c. 18, requires a member to report in writing to the College if the member has been charged with an offence, as well as to report any bail condition or other restriction imposed on the member in connection with the charge, as soon as reasonably practicable after they receive notice of the charge or bail condition. Dr. Mulji failed to report several of the charges and conditions such that the College was unaware of them and unable to post them on the public registry as it is required to do so.

Penalty and Costs

[18] The parties jointly proposed a reprimand, a suspension of eight months, the successful completion of the PROBE Ethics & Boundaries Program, and costs of \$6,000.

[19] Our role is limited when the parties agree on penalty. We should only depart from a joint submission if the proposed penalty would bring the administration of justice into disrepute or is otherwise not in the public interest: *R. v. Anthony Cook*, 2016 SCC 43. A disciplinary body that rejects a joint submission on penalty must show why the proposed penalty is so unhinged from the circumstances of the case that it must be rejected: *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303.

[20] We are satisfied that the proposed penalty would not bring the administration of physician regulation into disrepute or is otherwise not in the public interest. We are also satisfied that the proposed penalty appropriately balances the penalty goals: the protection of the public first and foremost, general and specific deterrence, rehabilitation and expressing the Tribunal and the profession's disapproval of the misconduct.

[21] The parties relied on four cases with a penalty range of three to eight months suspension: *College of Physicians and Surgeons of Ontario v. Mortada*, 2022 ONPSDT 35, *College of Physicians and Surgeons of Ontario v. Dhanoa*, 2020 ONCPSD 28, *College of Physicians and Surgeons of Ontario v. Nugent*, 2023 ONPSDT 25 and *College of Physicians and Surgeons Ontario v. Jha*, 2021 ONCPSD 18.

[22] As in the facts related to Dr. Mortada, who received a suspension of eight months, Dr. Mulji engaged in violence against a female partner. While the underlying facts of the criminal assault relating to Dr. Mortada were slightly more egregious in that multiple family members were involved, in this case, there is the added professional misconduct relating to failures to report charges and bail conditions and providing false information to the College. Dr. Mulji failed to report additional charges and bail conditions even after being specifically reminded to do so by the College both in writing and in a phone conversation.

[23] We are of the view that a reprimand and a suspension at the high range of eight months serves the penalty goals of specific and general deterrence as well as denounces the misconduct. It sends the message that intimate partner and other domestic violence is contrary to the core values and responsibilities of health professionals and thus constitutes serious professional misconduct.

[24] The PROBE course will also assist in Dr. Mulji's rehabilitation.

[25] We also accept the parties' agreement to costs of \$6,000, which reflects the tariff rate in the Rules of Procedure.

Order

[26] For the above reasons, our order provides:

1. The Tribunal requires the registrant to appear before the panel to be reprimanded.
2. The Tribunal directs the Registrar to:
 - a. suspend the registrant's certificate of registration for eight (8) months commencing June 27, 2024 at 12:01 a.m.;
 - b. place the following terms, conditions and limitations on the registrant's certificate of registration effective immediately:
 - i. The registrant shall participate in the PROBE Ethics & Boundaries Program offered by the Centre for Personalized Education for Professionals, by receiving a passing evaluation or grade, without condition or qualification. The registrant will complete the PROBE program within six (6) months of the date of this Order, or if it is not available within that timeframe, at the earliest opportunity. He will provide proof of completion to the College, including proof of registration and attendance and participant assessment reports, within one (1) month of completing it.
3. The Tribunal requires the registrant to pay the College costs of \$6,000.00 by August 12, 2024.

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Registrant

**The Tribunal delivered the following Reprimand
by videoconference on Wednesday, June 26, 2024.**

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

Dr. Mulji,

You were found guilty of assault of your domestic partner and uttering death threats. You were further charged with multiple other counts and subject to bail conditions, which you repeatedly failed to report to the College. You also falsely answered questions on your Annual Renewal Submission.

As a physician, you are bound by the ethical principle to do no harm and are held to the highest standard of personal and professional behaviour. These fundamental obligations require you to avoid actions that could cause harm to patients or others. Your violent actions and threats against an intimate partner are especially disturbing. Physicians are expected to be able to control their emotions and behave professionally in stressful situations, both within and outside the clinical setting.

The core principle of professional regulation is the duty to protect the public. Physicians are provided the privilege to practice medicine but have a responsibility to provide accurate information to the College in a timely manner. To fulfill its regulatory duties, the College relies on physicians respecting this obligation. Your failure to report criminal charges is a significant breach of the College's regulatory requirements and compromises public confidence in the integrity of our profession.

We expect that your significant suspension will serve as a deterrent against future misconduct. It will also send a strong message to all physicians that the College takes such misconduct very seriously and will maintain confidence in the ability of the profession to govern itself in the public interest.