## NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Suganthan Kayilasanathan, this is notice that the Discipline Committee made an order to prohibit the publication, including broadcasting, of the name or any information that could identify the patient who has been referred to in this proceeding as "Patient A" [Ms A] under subsection 47(1) of the Code.

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 47… 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. Kayilasanathan, 2018 ONCPSD 50**

**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) f 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. SUGANTHAN KAYILASANATHAN**

**PANEL MEMBERS:**

**DR. C. CLAPPERTON (CHAIR)**
**MR. P. PIELSTICKER**
**DR. W. MCCREADY**
**MAJOR A. H. KHALIFA**
**DR. P. POLDRE**

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

**MS C. SILVER**
**MR. K. MAIJALA**

**COUNSEL FOR DR. KAYILASANATHAN:**

**MR. A. PARLEY**
**MS L. ROBINSON**

**INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:**

**MR. R. COSMAN**

## PUBLICATION BAN

**Hearing Dates:** November 6, 7 and 9, 2017
February 28, March 2 and 22, 2018
**Finding Decision/Reasons Date:** September 21, 2018

## 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 November 6, 7 and 9, 2017, February 28, 2018, March 2 and 22, 2018. At the conclusion of the hearing, the Committee reserved its decision.

## ALLEGATIONS

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

1. under clause 51(1)(b.1) of the Health Professions Procedural Code, which is Schedule 2 to the *Regulated Health Professions Act*, 1991, S.O. 1991, c.18 (the "Code"), in that he has engaged in the sexual abuse of a patient; and

2. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act*, 1991 ("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 ALLEGATIONS

Dr. Kayilasanathan denied the allegations in the Notice of Hearing.

## BACKGROUND

The allegations of sexual abuse in this case arise from alleged conduct by Dr. Kayilasanathan in relation to Ms A during a month in the relevant year.

In brief, Dr. Kayilasanathan and Ms A knew each other socially prior to Ms A being seen by Dr. Kayilasanathan on two occasions at a walk-in clinic one week apart. At both clinic visits, the

medical record of Dr. Kayilasanathan establishes that he took a history and examined Ms A. At both clinical visits, Dr. Kayilasanathan provided Ms A with a medical note to excuse her from examinations.

The College submits that Dr. Kayilasanathan and Ms A engaged in sexual intercourse and oral sex on a single occasion between the two clinic visits when Dr. Kayilasanathan and Ms A were in a physician-patient relationship. Dr. Kayilasanathan submits that the College has not proved that Dr. Kayilasanathan and Ms A were in a physician-patient relationship at the time of the sexual relations, or at any time.

**THE ISSUES**

1. Did Dr. Kayilasanathan engage in sexual abuse of Ms A, i.e., did Dr. Kayilasanathan engage in sexual relations with Ms A concurrent with a doctor-patient relationship?

2. Did Dr. Kayilasanathan engage in disgraceful dishonourable or unprofessional conduct in relation to Ms A?

**THE LAW AND LEGAL PRINCIPLES**

The jurisdiction of the Committee to make a finding of professional misconduct derives from section 51(1) of the Code, which provides, in part:

> 51. (1) A panel shall find that a member has committed an act of professional misconduct if,
>
> […]
> (b.1) the member has sexually abused a patient;
> (c) the member has committed an act of professional misconduct as defined in the regulations.

**Sexual Abuse**

Subsection 1(3) of the Code provides that "sexual abuse" of a patient by a member means,

(a) sexual intercourse or other forms of physical sexual relations between the member and the patient,
(b) touching, of a sexual nature, of the patient by the member, or
(c) behaviour or remarks of a sexual nature by the member towards the patient.

The Code also provides in subsection 1(4):

(4) For the purposes of subsection (3), "sexual nature" does not include touching, behaviour or remarks of a clinical nature appropriate to the service provided.

To fall within the meaning of sexual abuse as defined in the legislation, the Committee must find the alleged sexual misconduct occurred with a patient. A finding of sexual abuse is not made out if a physician engages in sexual activity with someone other than a patient. If sexual activity occurred with someone other than a patient, such as a former patient, the circumstances may still give rise to a finding of disgraceful, dishonourable or unprofessional conduct.

**Disgraceful, Dishonourable or Unprofessional Conduct**

Paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* ("O.Reg. 856/93") provides:

1. (1) The following are acts of professional misconduct for the purposes of clause 51 (1) (c) of the Health Professions Procedural Code:

33. 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.

There is no statutory definition of "disgraceful, dishonourable or unprofessional conduct."

"A Complete Guide to the Regulated Health Professions Act" by Richard Steinecke states the following regarding disgraceful, dishonourable or unprofessional conduct, at page 6:60:20:

> "The catch-all provision is not intended to capture the legitimate exercise of professional discretion or mere errors of judgment. However, conduct need not be dishonest or immoral to fall within the definition. A serious or persistent regard for one's professional obligations is sufficient."

Both disgraceful and dishonourable conduct carry an element of moral failure, whereas conduct need not involve dishonest or immoral elements to be considered unprofessional. Conduct need not be proved to harm the patient to be unprofessional.

**THE EVIDENCE**

**Summary of Evidence**

The Committee heard the testimony of Mr. Z, Ms A, and Dr. X on behalf of the College. Counsel for Dr. Kayilasanathan did not call any witnesses at the hearing.

Various exhibits were filed on consent, including Ms A's patient chart and OHIP billing records (Exhibit 2), a medical certificate from Dr. Kayilasanathan regarding Ms A dated the date of the second clinic visit (Exhibit 3), a text message from Dr. Kayilasanathan to Ms A dated February 11, the year following the relevant year (Exhibit 4), reservation information from the Brand Name Inn ("the Inn} (Exhibit 5) and a summons to Ms A to give evidence (Exhibit 6).

**Patient Chart and OHIP Billing Records**

On consent, Ms A's patient chart and OHIP billing records were admitted into evidence as Exhibit 2. They establish that the first medical encounter between Dr. Kayilasanathan and Ms A occurred on the date of the first visit at a walk-in clinic, at 7:14 in the morning. The walk-in clinic record is entitled Patient Encounter and in the box for Patient, Ms A's name, home telephone number, birth date, health number, file number and gender, was recorded. The provider was identified as Dr. Kayilasanathan and the status of the encounter was recorded as "billed & reported." Key aspects of Ms A's medical chart for the date of the first clinic visit include:

> "*This patient presented with c/o of [medical condition] exacerbation. Has had URTI x 2 days +fevers/chills"*
> *"Unable to write/study for exams today and on [date of first clinic visit]"*
> *"O/E*
> *Appears ill, but NAD"*
> *"A/P*
> *[Medical condition] Exacerbation"*
> *"[Medication #1] as directed*
> *[Medication #2] prn"*
> *"Rtc 1 week or prn if symptoms are worse*"

OHIP billing records for this visit indicate that the service provided by Dr. Kayilasanathan for Ms A was an 'intermediate assessment' for which $33.10 was paid to the member by OHIP.

The medical records also establish that the second encounter between Dr. Kayilasanathan and Ms A occurred on the date of the second clinic visit [one week later]. Key aspects of the second visit, as noted in the Ms A's medical chart, include:

> "*c/o ongoing cough/wheezing"*

*"Still unable to study/write exams."*
*"Took [Medication #2] 30 mins ago.*
*Using it 3-4 times per day"*
*"O/E: NAD"*
*"A/P> URTI + [Medical condition]*
1. *Zpack*
2. *Cont [medications] as directed*
3. *RTC/ED w/worsening symptoms*"

OHIP billing records for Ms A's second visit indicate that the service provided by Dr. Kayilasanathan for Ms A was an 'intermediate assessment' for which $33.10 was paid.

**Testimony of Dr. X**

Dr. X, the managing director of the walk-in clinic, testified about the short forms used in the medical encounter notes. For the above-cited quotations, Dr. X testified that the following meanings were widely used and understood by family physicians:

- "c/o" – complaint of
- "URTI" – upper respiratory tract infection
- "O/E" – on examination
- "NAD" – no apparent distress
- "A/P" – assessment/plan
- "prn" – as needed
- "rtc" – return to clinic
- "ED" – emergency department
- "Zpack" – Zithromax

Dr. X also testified that the Electronic Medical Record (EMR) system used at the clinic in the relevant year did not have an auto-population feature that prompts a physician to enter certain

information. Instead, all entries had to be individually typed in by the health professional entering the data.

**Medical Certificate**

On consent, the Committee admitted into evidence a medical certificate as Exhibit 3. The certificate, on the walk-in clinic letterhead, was dated the date of the second clinic visit. It was regarding Ms A, identified by her birthdate and home address. The note was addressed "To Whom it may concern" and stated that Dr. Kayilasanathan had "seen Ms A on [the date of the second clinic visit] for a medical reason." It further stated: "She is unable to attend school/work/exam from [the date of the second clinic visit to the date of the next day] due to illness/injury. She will be returning on [the date of the next day] if she is better." Dr. Kayilasanathan signed the note.

**Hotel Reservation Information**

Counsel for the College tendered, and the Committee admitted in evidence as Exhibit 5, a record of a hotel reservation and receipt from the Inn. The documents indicate that Dr. Kayilasanathan checked into room 110 at the Inn at 10:19 p.m. on [a date in between the first and second clinic visits] and checked out at 11:10 a.m. the next morning. Payment was made using the credit card of Dr. Kayilasanathan.

**Testimony of Mr. Z**

Counsel for the College called Mr. Z as a witness. Mr. Z has been the general manager of the Inn since 2016. Prior to that date, he worked as a general manager at a different hotel in the same/related hotel group. Mr. Z testified that a unique number is assigned to each reservation by the property management system. He interpreted Exhibit 5 to indicate that the reservation had been guaranteed by the credit card used by Dr. Kayilasanathan. He testified that room 110 is on

the ground floor and that in the relevant year, the room had one queen-sized bed. Mr. Z noted that the documents do not show the number of guests in the room.

After considering submissions on the admissibility of the documents from counsel for the parties and advice from Independent Legal Counsel, the Committee accepted the documents into evidence as business records pursuant to section 35 of the *Ontario Evidence Act*.

**Testimony of Ms A**

Ms A testified pursuant to a summons served upon her. She acknowledged that she was not testifying voluntarily.

Ms A said that she first met Dr. Kayilasanathan around 2003 to 2004 through a mutual friend, Mr. B. At the time, Dr. Kayilasanathan was pursuing his studies to become a physician. This first encounter was at a party at a club. Ms A and Dr. Kayilasanathan engaged in small talk. For several years, she had no contact with either Mr. B or Dr. Kayilasanathan. Ms A became re-acquainted with Mr. B in November of the relevant year at the birthday of a mutual friend. Later that month, Ms A became re-acquainted with Dr. Kayilasanathan at a club. She described her interactions with Dr. Kayilasanathan at the club as being limited. Subsequently, Ms A, Mr. B and Dr. Kayilasanathan visited Dr. Kayilasanathan's condo, which was being renovated. Ms A testified that Dr. Kayilasanathan remarked that "he would love to get a girl's opinion on some tiles." Ms A continued to socialize with Dr. Kayilasanathan in early December of the relevant year.

Although Ms A had pending examinations on Monday, she elected to go "partying," starting the prior Saturday evening. After some time at a downtown club, Ms A, Dr. Kayilasanathan and Mr. B went to a nearby condo owned by Dr. Kayilasanathan's relative. Ms A testified that they were "hanging out." She wanted to leave for home shortly after leaving the club, but Mr. B suggested that Ms A could be excused from her upcoming examination with a doctor's note. Dr. Kayilasanathan confirmed that he could help by providing a medical note excusing her from

examinations. Ms A then continued to party and fell asleep around 10:00 a.m. She woke up around 4:00 to 5:00 p.m. Dr. Kayilasanathan and Mr. B drove her home. Sometime on Sunday, Dr. Kayilasanathan gave Ms A the address of his clinic and asked her to come on Monday, as Ms A's examination was that Monday evening. Ms A testified that she was not prepared for the examination and she did not want to fail the examination.

Counsel for the College produced a calendar of month of the relevant year to aid with specific dates. College counsel asked Ms A to recall the visit to Dr. Kayilasanathan's clinic that occurred on the date of the first clinic visit. Ms A stated that she did not have a medical condition exacerbation on that visit, but said that she had told Dr. Kayilasanathan about her past history of a medical condition. She denied any fevers, chills, wheezing or cough, despite these symptoms being documented by Dr. Kayilasanathan in the medical record of the encounter. Ms A testified that she told Dr. Kayilasanathan about her past prescriptions for medication #1 and medication #2, but she did not recall receiving a prescription from Dr. Kayilasanathan. Ms A testified that Dr. Kayilasanathan listened to her chest. Ms A did not recall any advice given by Dr. Kayilasanathan, nor did she recall his direction for her to return to the clinic in one week. Ms A testified that she did not receive any prescriptions, tests, bloodwork, imaging, or referrals at this visit. At the conclusion of the visit, Ms A obtained a medical note from Dr. Kayilasanathan that said because of illness or injury she would be unable to write her exams. The medical note was submitted and her examination, scheduled for later that same day, was deferred until a later date.

Ms A recounted that after the date of the first office visit, she and Dr. Kayilasanathan texted each other. On a day mid-week, in the late evening, sometime between 8:00 and 9:00 p.m., she said that Dr. Kayilasanathan picked her up from her home in his white Porsche. He drove her to a hotel. Ms A admitted that she was unaware of the hotel's street address and was not completely sure of the hotel's name, but did recall that it was an "inn" of some kind. Ms A recalled that the hotel room was on the first floor and that the window had a view of the parking lot. She did not remember any other details of the room other than the bed size being either queen-size or king-size. Dr. Kayilasanathan brought a bottle of vodka. Ms A drank, smoked weed and "got intimate" and was "making out" with Dr. Kayilasanathan. She testified that she had sexual

intercourse with Dr. Kayilasanathan and provided oral sex to him. She recalled that he was wearing a condom. Ms A testified that she left soon after having sexual intercourse. She estimated that her departure time was around 1:00 a.m. She elected to take a cab home because Dr. Kayilasanathan had been drinking alcohol. Dr. Kayilasanathan gave her some cash, but Ms A testified that it was not a sufficient amount to cover her cab fare home.

Ms A testified that prior to her next appointment with Dr. Kayilasanathan, she and Dr. Kayilasanathan exchanged a "flirty" text message. Ms A recalled texting, "Does the doctor want to see me again?" Dr. Kayilasanathan replied, "yes, of course."

Ms A recounted that she went back to Dr. Kayilasanathan's clinic on the date of the second clinic visit, for the purpose of getting another medical note to defer another upcoming examination because, she said, "I didn't study hard enough." Furthermore, Ms A testified that she had developed a rash after sexual intercourse with Dr. Kayilasanathan and she wanted to question Dr. Kayilasanathan about it.

Counsel for the College reviewed the second clinic visit medical record with Ms A. She could not recall very much about that clinical encounter. She denied any cough, wheezing, intermittent fevers or that she was unwell. She did not recall whether her throat or chest was examined on this visit. Ms A testified that Dr. Kayilasanathan did not examine the rash, reminding her that he had used a condom when they had sex. According to Ms A, there was no discussion about the medical condition, nor were any instructions given for her to go to come back to the clinic or an emergency department if her symptoms worsened. At this visit, Ms A did not get a prescription, no referrals were made, and there were no tests, radiology or bloodwork investigations. At the conclusion of this visit, Dr. Kayilasanathan provided Ms A with another medical note (Exhibit 3). She sent in the original and kept a copy for herself.

Ms A testified that she went to see Dr. Kayilasanathan on the date of the second clinic visit for "a personal matter" (the rash) and said, "I essentially used him to get the note."

Ms A testified that she did not recall any subsequent exchange of text messages with Dr. Kayilasanathan until February of the following year, when Dr. Kayilasanathan reached out to her about "a possible business idea" for which she might act as a marketing coordinator. She recalled that Dr. Kayilasanathan picked her up from her home on a Thursday evening prior to Valentine's Day and brought her to his newly-renovated condo. She described their interactions as "flirty" but no sexual activity occurred. At the condo, Dr. Kayilasanathan told her vacation stories and attempted to interest Ms A in a business partnership. Ms A testified that when Dr. Kayilasanathan drove her home, he pulled out his penis while in his car in the parking area where she lived, but she did not engage in sexual activity with Dr. Kayilasanathan. Ms A noted that after this meeting, she had no further contact of any kind with Dr. Kayilasanathan.

**Record of Text Message**

On consent, the Committee admitted into evidence as Exhibit 4 the record of a text message. The text message was dated on a date in February of the following year at 19:41. The text message was sent by Ms A to Dr. Kayilasanathan and read "Hey what's the plan for tonight".

**ANALYSIS AND FINDINGS**

The Committee recognizes that the onus is on the College to prove the allegations in the Notice of Hearing. The standard of proof is the civil standard, on a balance of probabilities (*F.H. v. McDougall*). The allegations must be proved on the basis of evidence that is clear, cogent, and convincing.

In this case, the Committee must decide on the totality of the evidence whether Dr. Kayilasanathan's conduct in relation to Ms A constitutes sexual abuse and/or disgraceful dishonourable or unprofessional conduct.

**Credibility Assessment**

The Committee recognizes the importance of the credibility assessment of a witness and understands that it may accept all of what a witness said, some of it or reject it entirely. The Committee is aware of factors relevant to assessing credibility. The factors of particular importance to the Committee include:

- The probability or improbability of a witness's story? Did the evidence make sense? Was it reasonable? Was it probable? Was there a tendency to exaggerate?
- Did the witness have an interest in the outcome of the hearing that may influence the evidence?
- Was there contradictory evidence from another witness?
- Has the witness given a prior inconsistent statement that affects the reliability of the evidence?

The Committee accepts that inconsistencies on minor matters of detail between what a witness said at the hearing and what was said on other occasions, are normal and to be expected and do not generally affect the credibility of the witness. When, however, inconsistencies are on a material point about which an honest witness is unlikely to be mistaken, that inconsistency may raise concerns about the witness's credibility.

The Committee considered the credibility and reliability of the three witnesses who testified.

**Mr. Z**

With respect to Mr. Z, the Inn's general manager, the Committee finds that he testified in a precise, professional manner regarding the hotel reservation information (Exhibit 5). Mr. Z did not have any interest in the outcome of the hearing. His evidence was useful to the Committee as he testified regarding the room that was reserved and paid for by Dr. Kayilasanathan and that it was on the ground floor of the Inn. This evidence was consistent with Ms A's testimony that she

and Dr. Kayilasanathan went to an inn of some kind and that their hotel room was on the ground floor.

**Dr. X**

The testimony of Dr. X, the medical director of the walk-in clinic, was delivered in a forthright and professional manner. Dr. X provided evidence regarding the meaning of various medical professional acronyms and short forms. The Committee accepted this evidence and that these notations are widely used and understood by the medical profession. Dr. X did not have any interest in the outcome of the hearing. The Committee accepted her testimony that in the relevant year, data entries in the EMR had to be manually typed in by the health professional entering data into the chart; there was no auto-population feature at the time.

**Ms A**

The Committee was very attentive to the issue of Ms A's credibility and the reliability of her testimony. She was the key witness. The Committee was aware that Ms A was testifying under summons. The Committee finds her testimony to be forthright and non-evasive. The Committee finds Ms A credible and her evidence generally reliable, except in certain areas where she could not remember the details of the walk-in clinic encounters, or where her testimony of how she was feeling conflicted with the medical record made at the time. Ms A testified she could not remember or denied the symptoms of illness and details of the examinations and advice documented by Dr. Kayilasanathan in his clinical notes on the dates of the first and second clinic visits. This is understandable given the fact that years had passed since those clinical visits and patients do not always remember accurately how they felt at the time of a clinical visit or what specific examinations were conducted. She certainly recalled the main purpose of her visit, which was to get a medical note to excuse her from taking examinations. What is critical is that she presented at the medical clinic, provided a medical history, was examined by Dr. Kayilasanathan, and was provided with medical notes excusing her from her examinations because of illness.

Ms A acknowledged that during the two visits with Dr. Kayilasanathan at the clinic, she provided Dr. Kayilasanathan with information about her past history of a medical condition and the medications prescribed to her in the past. However, she denied or did not recall having the symptoms described in Dr. Kayilasanathan's medical record. Ms A also described a more limited physical examination than what was noted in the medical record. The Committee notes that when questioned about the details of her two visits with Dr. Kayilasanathan at the clinic, Ms A acknowledged a number of times that she had no clear memory of the exact questions asked by Dr. Kayilasanathan or the extent of the physical examination performed. For example, she stated, "I don't have a clear memory of what took place." The Committee notes Ms A's testimony that the main purpose she had for her clinic visits was to obtain a medical note to excuse her from examinations. On this matter, Ms A's testimony was clear. Dr. Kayilasanathan proposed the medical notes and Ms A used the notes for their intended purpose. The Committee considered whether Ms A presented with symptoms of illness, as recorded by Dr. Kayilasanathan, or whether he inaccurately completed the medical record. Neither the College, nor the physician submitted that the clinical notes made by Dr. Kayilasanathan at the time did not accord with how Ms A presented when she attended at the clinic. Whether or not the clinical notes were fully accurate, whether or not she was feeling sick at the time of her clinical visits, Dr. Kayilasanathan examined Ms A and on each occasion, gave her a medical note excusing her from taking examinations because of illness/injury (injury was not an issue).

Ms A also testified that she did not have an exact recall of all of her social interactions with Mr. B and Dr. Kayilasanathan during the months of October, November and December of the relevant year. However, Ms A denied that any sexual activity occurred between her and Dr. Kayilasanathan during the social events that took place during their visits to various clubs and condos.

The Committee notes that despite the passage of a considerable period of time from the events in question, Ms A testified she had a clear memory of certain key events. The Committee finds that she was able to recall the sequence in which the sexual encounter occurred vis a vis her visits to

the clinic, the approximate time of arrival at the hotel mid-week, the ground floor location of the room, the nature of the sexual acts that occurred and the inadequate taxi fare provided to her by Dr. Kayilasanathan when she left the hotel. The Committee finds Ms A's evidence reliable where she recalled significant details of her encounter with Dr. Kayilasanathan despite the passage of time.

The Committee is not concerned about Ms A's inability to recall, or recall accurately, details of her clinical encounters or her inability to recall certain information, including the exact name of the hotel, its address, or its distance from the airport. First, she testified over seven years after the event in question. Second, Dr. Kayilasanathan drove Ms A to the hotel; as a passenger in a car it is understandable that she may not have noticed the address of the location. Third, the Committee accepts Ms A's testimony that it was an "inn" of some kind as sufficient, given that various chains of hotels with similar names are common. Finally, the Committee notes that Ms A had correctly identified the name of the hotel during her interview with College investigators in the year following the relevant year.

**1. Did Dr. Kayilasanathan engage in sexual abuse of Ms A?**

**a) Did Dr. Kayilasanathan have sexual relations with Ms A?**

Based on the totality of the evidence, including Ms A's and the hotel manager's testimony, which the Committee found to be credible and reliable, and the hotel reservation record [Exhibit 5], the Committee finds that sexual intercourse and oral sex occurred between Ms A and Dr. Kayilasanathan at the Inn on a date in the relevant year.

**b) Did Dr. Kayilasanathan and Ms A engage in sexual relations concurrent with a doctor-patient relationship?**

The Committee finds that Dr. Kayilasanathan and Ms A engaged in sexual relations on a date in in the relevant year. The Committee considered whether there was a concurrent doctor-patient relationship at that time.

**i) Doctor-patient Relationship**

In determining whether or not a physician-patient relationship existed between Dr. Kayilasanathan and Ms A, the Committee considered the principles set out in *CPSO v. Redhead* (2013) (*Redhead*). That case summarized a number of factors to be considered by the Committee in deciding whether or not a doctor-patient relationship exists. These factors are as follows:

- whether the professional had a patient file for the patient, including history, physical examination, diagnosis, plan of management, prognosis, diagnostic imaging reports, and a written record of treatments;
- whether there were OHIP billing records for services provided by the professional to the patient;
- the number and nature of treatments received by the complainant from the professional, and the location in which these treatments were received;
- whether any of the medical services provides involved psychotherapy;
- whether the complainant ever completed a consent to treatment form;
- whether there was any documentary evidence in which the professional referred to the complainant as his or her patient;
- whether there were any letters of consultation written to the complainant's primary physician;
- whether there were any letters reporting back to the professional about the complainant;
- whether the complainant was seeing other physicians, and particularly, whether the complainant had her own family physician when the sexual relationship began;

- whether there were referrals of the complainant by the professional to other professionals; and
- whether the professional prescribed medication to the complainant under his or her signature.

Although the Committee took guidance from the *Redhead* framework, it did not regard it as a scorecard. Certain factors set out in *Redhead* were not present in this case, including that Ms A did not complete a consent to treatment form, there were no referrals of Ms A by Dr. Kayilasanathan to other professionals and there were no letters from other professionals reporting back to Dr. Kayilasanathan about Ms A. However, the Committee concluded that these criteria were not relevant in the circumstances as the nature of the medical service provided did not require a consent to treatment form, referrals to another physician, psychotherapy, or letters reporting back to Dr. Kayilasanathan.

In determining whether a physician-patient relationship existed in this case, the Committee gave weight to the following factors:

- Dr. Kayilasanathan had a patient file for Ms A, which included on the date of the first clinic visit, a detailed description of a history, physical examination, diagnosis, and plan of management, and direction for a follow-up return to the clinic in one week or prn (as needed);

- Dr. Kayilasanathan's patient file for Ms A for the follow-up appointment on the date of the second clinic visit also included a detailed description of the history, physical examination, and diagnosis, and plan of management. Given the plan of management noted in Ms A's patient file, which included a return to the clinic in one week, the Committee finds that a second visit was planned as a follow-up to the first visit, indicating a continuity of care. Accordingly, the Committee rejects the submission from Dr. Kayilasanathan's counsel that a doctor-patient relationship, if there had been one, was terminated after each visit;

- Dr. Kayilasanathan billed OHIP for an intermediate assessment for each of the visits for specified services provided to Ms A.

- There is a notation on the clinic's medical record for Ms A identifying Ms A as the patient.

Also, the Committee considered an additional factor in this case, which is not listed in *Redhead* but is relevant in the Committee's view in determining the existence of a doctor-patient relationship. Dr. Kayilasanathan issued two medical notes to Ms A excusing her from her examinations. The Committee recognizes that a receptionist gave the second note to Ms A, but the note was clearly authorized by Dr. Kayilasanathan as it bore his signature. These medical notes were accepted by Ms A and used by Ms A to defer examinations. The Committee finds that the provision of a medical note is part of providing medical care to a patient and constitutes a medical service. The medical certificate of the date of the second clinic visit states that Dr. Kayilasanathan saw Ms A on that date for medical reasons, indicates she is unable to attend exams due to illness/injury, that she will return if she is better and invites further inquiry of him if there are any questions or concerns. A medical note is similar conceptually to a prescription for medication; it is understood to be issued by a physician on the basis of his or her professional judgment after an assessment of a patient and to be relied on by the intended recipient. The recipients of medical notes, such as employers and organizations, including administrators in this case, are expected to respect the recommendations and directions made by a physician. This is an example of the special authority granted to physicians.

The Committee considered Ms A's testimony in which she claimed that she was not a patient. However, her subjective view is not determinative whether a doctor-patient relationship had been established (see *CPSO v. Sliwin* (2013)).

Ms A explained her interactions regarding the visits with Dr. Kayilasanathan as follows:

> "I essentially used him to get a note. I needed a note, and he was a friend, and I asked, and he helped me out." (6-195-23/24)

It is clear that Ms A wanted a medical note to excuse her from her examinations, which Dr. Kayilasanathan offered to provide her. Ms A turned to Dr. Kayilasanathan as a physician, attended at his clinic, provided a history and submitted to a physical examination, and then received medical notes.

The Committee concludes that Dr. Kayilasanathan, by his actions in requesting Ms A to attend at his clinic, taking a history and conducting examinations, assessing Ms A as a patient and making a diagnosis and treatment plan, creating a medical record which included a plan for a return visit, billing OHIP and providing to Ms A medical notes excusing her because of illness from examinations, established a doctor-patient relationship with her on the date of the first clinic visit, which continued through to the follow-up appointment one week later on the date of the second clinic visit.

**ii) Concurrent Sexual Relations and Doctor-patient Relationship**

The Committee finds that Ms A and Dr. Kayilasanathan engaged in sexual intercourse and oral sex at the Inn on a date in the relevant month of the relevant year, which is between Ms A's two documented visits to Dr. Kayilasanathan at the walk-in clinic. The Committee notes that Ms A testified that one reason for her second visit to Dr. Kayilasanathan's clinic was her concern about a rash that had developed following the sexual relation. The Committee finds that this further supports the timing of the sexual activity occurring before the second visit.

**Adverse Inference**

The Committee noted Justice Sopinka's description of when an adverse inference in civil matters can be drawn from the failure to testify (*The Law of Evidence in Canada,* Fourth edition, at page 386):

> "In civil cases an unfavourable inference can be drawn when in the absence of an explanation, a party litigant does not testify, or fails to provide affidavit evidence on an application, or fails to call a witness who would have knowledge of the facts and would be assumed to be willing to assist the party. In the same vein, an adverse inference may be drawn against a party who does not call a material witness over whom he or she has exclusive control and does not explain it away. Such failure amounts to an implied admission that the evidence of the absent witness would be contrary to the party's case, or at least would not support it."

Dr. Kayilasanathan did not testify. The Committee considered several specific instances in which the absence of testimony from Dr. Kayilasanathan led to the adverse inference that his testimony would have been contrary to his case or at the least would not have supported it. These instances include:

- the discrepancy between Ms. A's memory of the two medical visits and the detailed medical records of those encounters authored by Dr. Kayilasanathan;
- the lack of use or availability of auto-populated templates for the EMR system used at the clinic;
- the existence of OHIP billing for the two medical visits, especially if the OHIP billing had been done by administrative staff without Dr. Kayilasanathan's approval;
- evidence, if any, that the doctor-patient relationship that was established on the date of the first clinic visit had been terminated; and,
- an alternative reason for Dr. Kayilasanathan staying at the hotel on the date in the relevant month of the relevant year.

The Committee found that the College had established a *prima facie* case of sexual abuse, based on the medical records and OHIP billings for Ms. A's two clinic visits, the hotel record from the evening of the sexual encounter, and the testimony of Ms A regarding these events.

With respect to the medical records, the Committee had regard to the significance of such records, as stated by the Supreme Court of Canada in *Ares v. Venner* (1970):

> Hospital records, including nurses' notes, made contemporaneously by someone having a personal knowledge of the matters then being recorded and under duty to make the entry or record should be received in evidence as *prima facie* proof of the facts stated therein. This should, in no way, preclude a party wishing to challenge the accuracy of the records or entries from doing so.

See also *CPSO v. Dr. Lieberman* (2011), affd. 2013; *CPSO v. McIntyre* (2015), affd. in Divisional Court, 2015, where an adverse inference was drawn where the physician failed to testify.

**Dr. Kayilasanathan's Submission regarding Care Incidental to Close Personal Relationship**

Counsel for Dr. Kayilasanathan submitted that the College policy in effect in the relevant year, *Treating Self and Family Members (February 2007)*, would permit the provision of episodic care for minor conditions without giving rise to a physician-patient relationship. The policy included in its definition of family member, "another individual in relation to whom the physician has a personal or emotional involvement". However, the policy states that physicians should not treat themselves or family members, except:

- For a minor condition or in an emergency situation, and
- *Only when another qualified health care professional is not readily available*.

Furthermore, the footnote to this section of the Policy states:

> The Canadian Medical Association advises physicians to "limit treatment of yourself or members of your immediate family to minor or emergency services, and *only when another physician is not readily available; there should be no fee for such treatment*"

> (CMA Code of Ethics, section 11). (Emphasis added)

There was evidence of a casual social relationship, but no evidence of a spousal, sexual or close relationship between Dr. Kayilasanathan and Ms A prior to Dr. Kayilasanathan providing medical services to her on the date of the first clinic visit. Also, the Committee does not find that the care provided was minor or emergent. It was also not fortuitous and there was no evidence to suggest that another physician would not have been available for her needs in this matter. Furthermore, there was clear evidence that a fee had been charged by Dr. Kayilasanathan for medical services that he rendered to Ms A.

**Other Case Law**

The Committee reviewed a number of cases referred to by the parties to assist with its consideration of different elements in this matter.

In *College of Physicians and Surgeons of Ontario v. Sliwin* (2013) the Committee noted:

> "the patient was described by defence counsel as a "sophisticated consumer" of cosmetic surgeries who should not be considered vulnerable in the usual sense. Furthermore, she did not consider herself to have been sexually abused (albeit in ignorance of the legal definition of sexual abuse) and she had communicated to the College that their relationship had been consensual."

In that matter the Discipline Committee was unequivocal in its rejection of that argument and stated:

> "The Committee rejected the defence that Ms X was not in a doctor-patient relationship with Dr. Sliwin, or that her "sophistication" in returning for more and more cosmetic surgery put her in any category other than a patient, or that her view of her relationship with him as "consensual" somehow changed her status as a patient. Courts have accepted

> that there is a power imbalance between a doctor and patient so that no sexual relationship between a doctor and patient can ever be truly consensual."

*College of Physicians and Surgeons of Ontario v. Muhammad* (2013) involved a finding of sexual abuse. The patient was a part-time employee of a walk-in clinic who received episodic, minor care during working hours from Dr. Muhammad. The patient had her own family physician. Dr. Muhammad documented each episode of care in a medical chart and billed OHIP. Dr. Muhammad was found to have sexually abused the patient in an incident characterized by hugging and kissing her at the workplace several months after the last documented medical visit. Although Dr. Muhammad denied the hugging and kissing, he did concede that a doctor-patient relationship existed on the day of the incident. The Committee found that the patient's status as a patient extended from the date of the first medical encounter to the date of the incident.

When deciding whether a physician-patient relationship existed in Dr. Kayilasanathan's case, the Committee noted that the existence of a medical chart and OHIP billing in the *Muhammad* case were central to the finding of patient status and that status did not have a defined termination. There was no suggestion that the doctor-patient relationship terminated after each episode of care.

Likewise, in *Clokie v. The Royal College of Dental Surgeons of Ontario* **(**2016), the Discipline Committee relied on the existence of Dr. Clokie's dental care record that documented his findings and indicated that there would be further work-up of the patient. Dr. Clokie and the patient engaged in sexual intercourse approximately six weeks after the initial visit. The Committee rejected the defence argument that the dentist-patient relationship had terminated after the first visit.

The Committee carefully reviewed cases in which panels of the Discipline Committee had decided that a doctor-patient relationship did not exist.

In *College of Physicians and Surgeons of Ontario v. Rabin* (2003), Dr. Rabin and the

complainant had a social relationship between 1977 and 1996, while both were married to other partners. In the timespan from 1982 to 1993, Dr. Rabin billed OHIP on four occasions for "occasional, sporadic advice and prescribing for a social acquaintance." The Committee did not view Dr. Rabin as the family doctor of the complainant. "There were no OHIP billings and no medical record since 1993, and there was no evidence of regular physicals such as might be expected from a family doctor." In 1996, a sexual relationship began between the two while Dr. Rabin was out of Canada. Upon his return in 1998, he and the complainant had a common-law relationship that ended in 2000. The Discipline Committee "found that the sexual relationship developed in the context of a social and spousal relationship, and not as a result of a treating relationship between a doctor and his patient, noting that this was not the case of a pre-existing doctor patient relationship that continued concurrently with a sexual relationship."

The Committee did not find this case to be useful as the circumstances and timing of the medical visits, OHIP billing and the initiation of the sexual relationship were very different in Dr. Kayilasanathan's case.

In *College of Physicians and Surgeons of Ontario v. Abouelnasr* (2006), Dr. Abouelnasr and the complainant (who lived in the United States) had an extra-marital sexual relationship for an unspecified period of time. During the sexual relationship, Dr. Abouelnasr provided incidental medical treatment including three prescriptions, speaking to the complainant's American family physician and receiving four laboratory reports from that physician. The College withdrew the allegation of sexual abuse and the member pleaded no contest to the allegation of engaging in conduct that would be regarded as disgraceful, dishonourable or unprofessional. The panel was not provided with any evidence regarding the existence of a patient chart or OHIP billing for the above treatments. In the matter regarding Dr. Kayilasanathan, the Committee had clear evidence of a patient record and OHIP billings.

In *College of Physicians and Surgeons of Ontario v. Rai* (2016), Dr. Rai began a sexual relationship with Ms. A in January 2007, eight months prior to the first medical visit. They married in 2009. The relationship ended in 2011. Starting in August 2007, Dr. Rai treated Ms A

once in a walk-in clinic and nine times in the local Emergency Department, where he was the only physician on duty. Ms A did not have a family physician. The panel found that the care provided by Dr. Rai constituted incidental care to a spouse, given the unique circumstances in this case. None of the visits were found to be part of regular or ongoing care. The Committee found that a doctor-patient relationship did not exist.

In the matter regarding Dr. Kayilasanathan, the Committee did not have any evidence that a spousal or sexual relationship had been in place prior to the two visits of Ms. A to the walk-in clinic.

The Committee found the Court of Appeal decision (2010) in *Leering v. College of Chiropractors Ontario* (2008) case to be particularly useful in its analysis of the relationship between Ms A and Dr. Kayilasanathan. With respect to the submission of counsel for Dr. Kayilasanathan that the Committee should consider the context of the friendship between Ms A and the member, the following paragraph from the Court of Appeal was considered by the Committee:

> The discipline committee of the College has expertise in professional conduct matters as they relate to chiropractic practice. Their expertise is not in spousal relations or dynamics, nor would it be fruitful, productive or relevant to the standards of the profession for the committee to investigate the intricacies of the sexual and emotional relationship between the professional and the complainant.

The Court of Appeal further stated that:

> The Divisional Court correctly identified the purpose of these provisions of the Code, which is to prevent a health care professional from being in a position to use the power imbalance between a doctor and a patient to obtain consent to sexual activity. *However, the offence is complete when a doctor is in a sexual relationship with a patient, regardless of whether there was any power imbalance*

> *in the particular case, and whether it was used in fact to obtain consent for sex.* (Emphasis added)

**Conclusion**

The Committee finds that Dr. Kayilasanathan commenced a doctor-patient relationship with Ms A on the date of the first clinic visit, and indicated via the "return to clinic" direction in Ms A's patient record on that date that the clinical relationship was to continue until at least the follow-up visit on the date of the second clinic visit, a week later. The Committee accepts the testimony of Ms A that sexual intercourse and oral sex occurred during that week. The Committee finds that Dr. Kayilasanathan continued to be Ms A's physician when she returned to see him on the date of the second clinic visit.

Furthermore, Dr. Kayilasanathan failed to maintain the appropriate boundary between physician and patient in having sexual relations with Ms A after he commenced a doctor-patient relationship and for that reason his conduct is disgraceful, dishonourable or unprofessional.

Therefore, the Committee finds that Dr. Suganthan Kayilasanathan committed an act of professional misconduct:

1. in that he has engaged in the sexual abuse of a patient; and

2. 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.

**IMMEDIATE INTERIM SUSPENSION**

Section 51(4.2) of the Code provides:

> **Interim suspension of certificate**
> (4.2) The panel shall immediately make an interim order suspending a member's certificate of registration until such time as the panel makes an order under subsection (5) or (5.2) if the panel finds that the member has committed an act of professional misconduct,
>
> […]
> (c) by sexually abusing a patient and the sexual abuse involves conduct listed under subparagraphs 3 i to vii of subsection (5). (Emphasis added)

Subparagraphs 3 i to vii of subsection 51(5) state:

1. Revoke the member's certificate of registration if the sexual abuse consisted of, or included, any of the following:
   i. Sexual intercourse.
   ii. Genital to genital, genital to anal, oral to genital or oral to anal contact.
   iii. Masturbation of the member by, or in the presence of, the patient.
   iv. Masturbation of the patient by the member.
   v. Encouraging the patient to masturbate in the presence of the member.
   vi. Touching of a sexual nature of the patient's genitals, anus, breasts or buttocks.
   vii. Other conduct of a sexual nature prescribed in regulations made pursuant to clause 43 (1) (u) of the *Regulated Health Professions Act, 1991*.

Given the Committee's findings, the Committee makes an immediate interim order suspending Dr. Kayilasanathan's certificate of registration, until such time as the Committee makes an order under subsection 5 or 5.2 of the Code. The Committee requests that the Hearings Office schedule a penalty hearing.

**Indexed as: Ontario (College of Physicians and Surgeons of Ontario) v. Kayilasanathan, 2019 ONCPSD 5**

**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) f 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. SUGANTHAN KAYILASANATHAN**

**PANEL MEMBERS:**

**DR. C. CLAPPERTON (CHAIR)**
**MR. P. PIELSTICKER**
**DR. W. MCCREADY**
**MAJOR A. H. KHALIFA**

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

**MS C. SILVER**
**MR. K. MAIJALA**

**COUNSEL FOR DR. KAYILASANATHAN:**

**MR. A. PARLEY**
**MS A. WHEELER**

**INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:**

**MR. R. COSMAN**

## PUBLICATION BAN

| | |
|---|---|
| **Penalty Hearing Date:** | **December 11, 2018** |
| **Penalty Decision Date:** | **January 29, 2019** |
| **Written Penalty Decision Date:** | **January 29, 2019** |

## PENALTY DECISION AND REASONS FOR DECISION

On December 11, 2018, the Discipline Committee (the "Committee") of the College of Physicians and Surgeons of Ontario heard submissions from the parties on the appropriate penalty and costs order to impose for the findings of professional misconduct made by the Committee in its Decision and Reasons for Decision of September 21, 2018.

Dr. Kayilasanathan did not attend this portion of the hearing.

## FINDINGS

On September 21, 2018, the Committee found that Dr. Suganthan Kayilasanathan committed an act of professional misconduct:

3. under clause 51(1)(b.1) of the Health Professions Procedural Code, which is Schedule 2 to the *Regulated Health Professions Act*, 1991, S.O. 1991, c.18 (the "Code"), in that he has engaged in the sexual abuse of a patient; and

4. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act*, 1991 ("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.

Given the Committee's findings, the Committee made an immediate interim order on September 21, 2018 suspending Dr. Kayilasanathan's certificate of registration, until such time as the Committee made an order under subsection 51(5) or (5.2) of the Code regarding penalty.

**SUBMISSSIONS ON PENALTY AND COSTS**

Counsel for the College and counsel for Dr. Kayilasanathan both submitted that given the findings, revocation of Dr. Kayilasanthan's certificate of registration and a reprimand were mandatory under Section 51(5) of the Code. The payment of costs by Dr. Kayilasanathan was not in dispute.

Counsel for the College submitted that the Committee should find that revocation and a reprimand would have been appropriate, even if not mandatory. Counsel for the member submitted that such a finding was unnecessary, given the mandatory nature of the penalty to be imposed.

**PENALTY AND REASONS FOR PENALTY**

Subsection 51(5) of the Code provides for mandatory revocation of a physician's certificate of registration and a reprimand when a finding of sexual abuse of a patient involving sexual intercourse and/or oral-genital contact is made. That was the nature of the findings in this case. Accordingly, the Committee ordered that Dr. Kayilasanathan's certificate of registration be revoked and that he be reprimanded.

The Committee decided to set out what its penalty would have been if the penalty had not been mandatory. The Committee would have applied the following principles in deciding on penalty. The penalty must protect the public from harm. It must provide specific deterrence to the member and general deterrence to the profession. The penalty must be seen to uphold the honour and integrity of the profession and maintain public confidence in the College's ability to regulate the profession in the public interest. The Committee would consider aggravating and mitigating factors, and look at similar cases. While each case on its facts is unique in nature, the Committee accepts that like cases should be treated alike. Previous decisions provide guidance for the Committee but are not binding on it.

The Committee considered the nature and circumstances of the misconduct and the following aggravating factors. Dr. Kayilasanathan violated Patient A's trust by engaging in sexual relations with her, including sexual intercourse and oral sex. The Committee found Dr. Kayilasanathan's conduct to be a serious abuse of his position of power with regard to Patient A. Dr. Kayilasanathan abused his position as a physician to satisfy his personal needs. He failed to act in Patient A's best interest and failed to maintain appropriate boundaries with her. As a physician, it was Dr. Kayilasanathan's responsibility to maintain professional boundaries. Dr. Kayilasanathan breached these boundaries and did not live up to his professional responsibility. The Committee found that Dr. Kayilasanathan's influence over Patient A, by offering and providing her with two notes to excuse her attendance at examinations, to be a serious misuse of his power and responsibilities in the context of pursuing sexual relations with her.

The Committee heard no evidence of previous findings before the Discipline Committee. This was Dr. Kayilasanathan's first discipline finding, which the Committee considered a mitigating factor.

However, given the serious nature of the misconduct and the breach of trust, the Committee is of the view that even if the penalty of revocation were not mandatory, it would have ordered revocation of Dr. Kayilasanathan's certificate of registration as the appropriate penalty. Serious sexual misconduct with a patient erodes confidence in the medical profession and brings it into disrepute.

**COSTS**

Costs were requested on the basis of five hearing days, one in 2017 and four in 2018. The tariff rate for 2017 was $5,500 per day and in 2018, $10,180 per day. Costs were not disputed and the Committee accepted that the payment of costs by Dr. Kayilasanathan to the College on this basis, in the total amount of $46, 220.00, was reasonable.

**ORDER**

The Committee stated its findings of professional misconduct in paragraph 1 of its written order of December 11, 2018. In that order, the Committee ordered and directed on the matter of penalty and costs that:

2. The Registrar revoke Dr. Kayilasanathan's certificate of registration effective immediately.

5. Dr. Kayilasanathan appear before the panel to be reprimanded.

6. Dr. Kayilasanathan pay to the College costs in the amount of $46,220 within 30 days of the date of this Order.

**TEXT of PUBLIC REPRIMAND**
**Delivered April 28, 2021**
**in the case of the**
**COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO**
**and**
**DR. SUGANTHAN KAYILASANATHAN**

*This is not an official transcript*

Dr. Kayilasathanathan:

We are here on behalf of the membership of the College and the members of the public whom the College protects to express our deep dismay and abhorrence of your violation of your responsibility to uphold the honour and integrity of the profession.

You abused your position of power and trust as a physician to sexually abuse a woman, a patient who required your medical services. She needed notes to excuse her from exams and you used that opportunity to further your own interests and you had sex with her. You did not act in her best interests. You violated her trust in you and did not maintain appropriate boundaries. Your conduct with this patient was disgraceful, dishonourable and unprofessional.

Your actions paint the whole profession in a negative light and all physicians are affected. Your behaviour was egregious and speaks to your own lack of morals and principles. No member of the profession or the public should be surprised that your conduct resulted in revocation of your certificate of registration. You used your power and privilege to take advantage of a patient – you put your own sexual desires ahead of the best interests of your patient. You should have known better than to engage in this conduct.