

SUMMARY

DR. SALIM HAIDERALI DAYA (CPSO# 31386)

1. Disposition

On March 7, 2018, the Inquiries, Complaints and Reports Committee (the Committee) required general practitioner Dr. Daya to appear before a panel of the Committee to be cautioned with respect to his unnecessary touching of a patient and his inappropriate communications.

2. Introduction

A patient complained to the College that after performing an embryo transfer procedure, Dr. Daya (Obstetrics and Gynecology), placed his hands on her abdomen and stated that he would apply his “magic powder” on her to effect a successful embryo transfer. The patient stated that she did not feel Dr. Daya’s actions were “sexual”, but she did feel he was “taking liberties” with her body as the touching was not part of the procedure, was unwanted and wrong, and left her feeling exposed. She was also concerned that before proceeding with the transfer, Dr. Daya asked her if he could have one of her embryos.

Dr. Daya acknowledged that he told the patient that he was going to “sprinkle some magic dust on her” or words to that effect. He indicated that his impression was that the patient was very comfortable and that they had developed a friendly rapport. Dr. Daya stated that, on reflection, he deeply regrets the discomfort and upset he caused the patient. He indicated that he had sought assistance with communications from a communications coach, and provided a report from the communications coach regarding his progress.

3. Committee Process

A General Panel of the Committee, consisting of public and physician members, met to review the relevant records and documents related to the complaint. The Committee always has

before it applicable legislation and regulations, along with policies that the College has developed, which reflect the College's professional expectations for physicians practising in Ontario. Current versions of these documents are available on the College's website at www.cpso.on.ca, under the heading "Policies & Publications."

4. Committee's Analysis

The Committee was of the view that Dr. Daya was possibly trying to be light-hearted in asking the patient for one of her embryos. However, given the emotional and stressful context of the visit, and the fact that Dr. Daya had no established relationship with the patient (it was, in fact, their first meeting), the Committee was of the opinion that he showed poor judgment in choosing to use humour in this manner.

The College's policy, *Maintaining Appropriate Boundaries and Preventing Sexual Abuse*, notes that the doctor-patient relationship is characterized by a power imbalance in favour of the physician, and that patients may feel particularly vulnerable when undressed or exposed. The policy outlines guidelines for maintaining professional boundaries, which includes advice to avoid physical contact with patients, except what is required to perform medically necessary examinations, and to show sensitivity and respect for the patient's privacy and comfort at all times.

The Committee noted that while there was some discrepancy in the reports about how Dr. Daya placed his hands on the patient (i.e. whether he used one or two hands, and whether the contact was with the patient's bare skin or with the sheet over her belly), it was undisputed that Dr. Daya did place one or two hands on the patient's abdomen following the procedure, and did make a comment about sprinkling magic dust or powder on her. The Committee was of the view that Dr. Daya showed very poor judgment, first in choosing to touch the patient in a manner that was not medically necessary (and, by her account, unwanted), and secondly in making remarks that had the potential to be perceived as inappropriate or offensive by some patients (as they clearly were by this patient). It was evident to the Committee that Dr. Daya

was not as careful as he should have been to be sensitive to the patient's non-verbal cues, and to ensure her comfort in the situation.

The Committee was strongly of the view that Dr. Daya required coaching to address the deficiencies evident in his behaviour in this case. However, as it had information indicating that Dr. Daya has voluntarily initiated communications coaching with a recognized coach, the Committee was satisfied that he had taken appropriate steps to address the clear concerns that were identified with his behaviour, to assist him in avoiding similar unfortunate circumstances in the future.

While the Committee was satisfied that the above coaching would adequately address the concerns regarding his behaviour, and that the public would be protected in terms of Dr. Daya's future practice, given the nature of the concerns, the Committee determined that it was also appropriate to caution Dr. Daya, as set out above.