

## NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Darryl Jordan Gebien, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of patients or the ten individuals whose identities were disclosed to the Panel at the hearing of this matter and are otherwise known to the parties, referred to orally or in the exhibits filed at the hearing. This order was made under subsection 45(3) of the Health Professions Procedural Code (the "Code"), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, as amended.

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 45 or 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. Gebien, 2020 ONCPSD 20

**DISCIPLINE COMMITTEE  
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) of the **Health Professions Procedural Code**  
which is Schedule 2 of the ***Regulated Health Professions Act, 1991***,  
S.O. 1991, c. 18, as amended.

**B E T W E E N:**

**COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

**- and -**

**DR. DARRYL JORDAN GEBIEN**

**PANEL MEMBERS:**  
**MS E.M. MILLS (Chair)**  
**DR. S. BODLEY**  
**DR. S. HUCKER**  
**DR. P. BERGER**  
**MR. M. KANJI**

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

**MS ELISABETH WIDNER**

**COUNSEL FOR DR. GEBIEN:**

**MR. JAAN LILLES**  
**MS ANDREA WHEELER**  
**MS SAMANTHA HALE**

**INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:**

**MR. JESSE HARPER**

**Hearing Dates: February 24 and 25, 2020**  
**Decision Date: April 28, 2020**  
**Release of Reasons Date: April 28, 2020**

## **PUBLICATION BAN**

## 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 February 24 and 25, 2020. At the conclusion of the hearing, the Committee reserved its decision.

### THE ALLEGATIONS

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

1. 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 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;
2. under paragraph 1(1)2 of O. Reg. 856/93, in that he has failed to maintain the standard of practice of the profession; and
3. under clause 51(1)(a) 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 been found guilty of an offence that is relevant to his suitability to practise.

The Notice of Hearing further alleged that Dr. Gebien is incompetent as defined by subsection 52(1) of the *Code*.

### RESPONSE TO THE ALLEGATIONS

Dr. Gebien admitted the allegations in paragraphs 1 and 3 of the Notice of Hearing in respect of professional misconduct, i.e., that he has engaged in 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; and that he has been found guilty of an offence that is relevant to his suitability to practise.

## **WITHDRAWAL**

The College withdrew the allegations in paragraph 2 of the Notice of Hearing in respect of professional misconduct, i.e., that Dr. Gebien has failed to maintain the standard of practice of the profession. The College also withdrew the allegation in respect of incompetence.

## **THE FACTS**

The following facts were set out in an Agreed Statement of Facts and Admission (Liability) which was filed as an exhibit and presented to the Committee:

## **BACKGROUND**

1. Dr. Darryl Jordan Gebien ("Dr. Gebien") is a 49-year-old physician who practised emergency medicine at Royal Victoria Regional Health Centre ("RVH") in Barrie, Ontario.
2. Dr. Gebien received his certificate of registration in Ontario in March 2009, subject to a practice restriction that Dr. Gebien may only practise emergency medicine under supervision. In February 2011, Dr. Gebien was issued an independent certificate of registration restricted to emergency medicine.
3. Dr. Gebien ceased practising medicine on November 1, 2014, as a result of events described below. On May 8, 2016, Dr. Gebien signed a cease to practise undertaking with the College that remains in effect, attached at Tab 1 to the Agreed Statement of Facts and Admission (Liability).

## **OVERVIEW OF THE CASE**

4. Beginning in approximately 2008, after experiencing a serious injury to his back, Dr. Gebien was prescribed Percocet by his family doctor and in time developed an addiction to opioids. By the summer of 2013, Dr. Gebien's opioid addiction had developed to include the abuse of Fentanyl. By 2013, Dr. Gebien was recruiting other individuals to help him obtain drugs through fake prescriptions he wrote for them. He also forged colleagues' signatures on RVH prescription pads in order to obtain Fentanyl. When a pharmacist called the hospital with questions about a forged prescription, Dr. Gebien's scheme was uncovered. His privileges were suspended by RVH on November 1, 2014. Dr. Gebien subsequently resigned.

5. Dr. Gebien was arrested by the Barrie Police Service on November 3, 2014 and charged with six counts of making a forged document contrary to s.366(1)(a) of the *Criminal Code of Canada* and six counts of knowingly using a forged document contrary to s.368(1)(a) of the *Criminal Code of Canada*. In January 2015, Dr. Gebien was charged with trafficking in a substance included in Schedule 1 of the *Controlled Drugs and Substances Act* and five counts of possession of a substance included in Schedule 1 of the *Controlled Drugs and Substances Act* and six counts of possessing a substance included in Schedule 1 of the *Controlled Drugs and Substances Act* for the purpose of trafficking.

6. On December 12, 2016, Dr. Gebien pleaded guilty to a charge that, between August 10, 2013 and November 3, 2014, in Barrie, he knowingly used a forged document (a medical prescription) as if it were genuine, contrary to s. 368(1)(a) of the *Criminal Code of Canada*, R.S.C., 1985, c. C-46. He also pleaded guilty to a charge that, between the same dates, he trafficked in Fentanyl contrary to s. 5(1) of the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19. Dr. Gebien was convicted on both counts and was subsequently sentenced to a two-year penitentiary term.

**DISGRACEFUL, DISHONOURABLE OR UNPROFESSIONAL CONDUCT****a. Obtaining Fentanyl Through Fake Prescriptions**

7. By the spring of 2013, Dr. Gebien had developed an addiction to Percocet. He obtained some Fentanyl from a family member who had a valid prescription, when he ran out of Percocet. However, as his addiction worsened, Dr. Gebien began obtaining Fentanyl in the summer of 2013 by writing fake prescriptions from himself and others. Certain individuals would fill the prescriptions and return the Fentanyl to Dr. Gebien to manage his withdrawal symptoms.

8. By the spring of 2013, Dr. Gebien was addicted to Fentanyl and began writing fake prescriptions to other individuals and forging prescriptions on RVH pads by using the names of other doctors and making out the Fentanyl prescriptions to himself for his use.

9. In total, during the period of August 10, 2013 to November 3, 2014, Dr. Gebien prescribed 445 Fentanyl patches of varying dosages to 10 people, plus himself, through 46 separate transactions involving illegitimate prescriptions. In each instance, the prescriptions were filled and there was no valid medical purpose for these prescriptions. The true purpose was to satisfy Dr. Gebien's ongoing addiction to Fentanyl. In addition to writing the fraudulent prescriptions, Dr. Gebien would confirm their validity to the pharmacists if he was called with concerns about their propriety.

10. At all relevant times Dr. Gebien was in a position of trust as an emergency room physician at the RVH in Barrie. He abused his access to RVH prescription pads to forge prescriptions to himself using the names of two of his physician colleagues and to write illegitimate prescriptions to other individuals.

11. Many of the individuals used by Dr. Gebien to obtain Fentanyl through fraudulent prescriptions were either subject to his authority as their superior, subject to his influence as his family member, or were otherwise recruited by Dr. Gebien.

12. Dr. Gebien, in a statement to police, denied smoking Fentanyl while at work in the emergency department, but acknowledged that “as an addict, if I didn’t wear a patch I would feel uncomfortable”. Dr. Gebien acknowledges that he used transdermal patches and had Fentanyl in his system while treating patients in the hospital emergency department. There is no evidence that Dr. Gebien sold or otherwise distributed the Fentanyl for financial gain.

**b. Prescriptions forged in colleagues’ names**

13. From June 30, 2014 to November 2, 2014, Dr. Gebien prescribed himself 60 patches of Fentanyl by forging prescriptions from two of his colleagues at RVH, Dr. Coryn Hayman and Dr. Paul Hassan, without their knowledge. Dr. Gebien personally received 48 of the 60 patches before having a forged prescription for 12 patches rejected in November 2014, which ultimately led to the criminal investigation and his arrest.

14. Dr. Gebien forged Fentanyl prescriptions to himself using the names of his colleagues at RVH as follows:

July 30, 2014:	6 x 50MCG [microgram]patches (Dr. C. Hayman)
August 2, 2014:	10 x 75MCG patches (Dr. C. Hayman)
June 13, 2014:	12 x 75MCG patches (Dr. P. Hassan)
September 3, 2014:	10 x 75MCG patches (Dr. P. Hassan)
October 7, 2014:	10 x 50MCG patches (Dr. P. Hassan)
November 2, 2014:	12 x 75MCG patches (Dr. C. Hayman)

15. A pharmacist became suspicious of the last prescription and contacted Dr. Hayman at RVH. Dr. Hayman verified that the prescription was a forgery and police were contacted. Neither Dr. Hayman nor Dr. Hassan has ever treated Dr. Gebien or provided him with a prescription.

**c. Prescriptions to RVH Employees**



16. While working at RVH, Dr. Gebien used his position of authority over three RVH employees by asking them to obtain Fentanyl patches for him in the form of fake prescriptions he wrote in their names with the goal that they would return the Fentanyl to Dr. Gebien for his use. Between August 7, 2014 and October 20, 2014, Dr. Gebien prescribed 27 Fentanyl patches to these three different RVH employees on three separate occasions.

17. He persuaded the three employees to fill the prescriptions and return the Fentanyl patches to him on each occasion. As each of these employees was subject to his authority as a doctor working in their department, they each felt pressured by his requests to assist him.

18. Ultimately, all three employees lost their jobs due to their involvement with Dr. Gebien.

19. Dr. Gebien prescribed Fentanyl patches for these RVH employees as follows:

August 7, 2014:	5 x 50MCG patches
September 11, 2014:	10 x 50MCG patches
October 20, 2014:	12 x 25MCG patches, along with Percocet (oxycodone).

**d. Prescriptions to Family/Friends**

20. From June 14, 2013 to October 21, 2014, Dr. Gebien prescribed 146 Fentanyl patches of varying dosages to two individuals (A and B) over the course of 21 separate transactions. Dr. Gebien used his influence in these relationships to obtain Fentanyl for himself.

**A**

21. Between September 15, 2013 and October 16, 2014, Dr. Gebien prescribed 74 Fentanyl patches to A through 7 separate transactions.

22. Dr. Gebien prescribed Fentanyl patches to A, for his own use, as follows:

September 15, 2013:	6 x 25MCG patches
May 26, 2014:	12 x 50MCG patches
May 28, 2014:	10 x 50MCG patches
July 10, 2014:	7 x 75 MCG patches
July 27, 2014:	6 x 50MCG patches
August 31, 2014:	10 x 50MCG patches
September 15, 2014:	10 x 50MCG patches
October 2, 2014:	10 x 50MCG patches
October 16, 2014:	3 x 50MCG patches

## **B**

23. Between June 14, 2013 and October 21, 2014, Dr. Gebien saw B professionally for pain issues, and in June and July of 2013 provided legitimate prescriptions to B on two occasions totaling 22 patches. B quickly decided that Fentanyl was too strong a drug for him and that he did not wish to use the prescriptions. Dr. Gebien prescribed a further 104 Fentanyl patches to B which were not for B but rather for the use of and picked up by Dr. Gebien.

24. Dr. Gebien prescribed Fentanyl patches to B as follows:

June 14, 2013:	12 x 50MCG patches
July 11, 2013:	10 x 50MCG patches
August 10, 2013:	6 x 50MCG patches
November 26, 2013:	12 x 50 MCG patches
January 5, 2014:	6 x 50MCG patches

March 18, 2014:	8 x 50MCG patches
May 2, 2014:	10 x 50MCG patches
May 15, 2014:	12 x 50MCG patches
June 3, 2014:	12 x 75MCG patches
July 16, 2014:	10 x 75MCG patches
August 26, 2014:	10 x 75MCG patches
September 28, 2014:	6 x 75MCG patches
October 21, 2014:	12 x 75MCG patches

**e. Prescriptions to Others**

25. From July 22, 2014 to October 31, 2014, Dr. Gebien prescribed 180 Fentanyl patches of varying dosages to 5 different individuals through 17 separate transactions. Each of these individuals was given Fentanyl and/or other narcotics as payment for their assistance in obtaining Fentanyl for use by Dr. Gebien.

**F**

26. F was unknown to Dr. Gebien until 2014. Dr. Gebien was aware F suffered from pain as a result of prior injuries. Dr. Gebien asked F to attend RVH for a check-up relating to his pain. He was then asked to pick up Fentanyl for Dr. Gebien as well as Percocet (oxycodone). Between July 22, 2014 and August 7, 2014, Dr. Gebien prescribed F 16 Fentanyl patches through 2 separate transactions. In exchange for transporting the Fentanyl back to Dr. Gebien, F received half of the Percocet prescribed. F gave all of the Fentanyl and half the Percocet to Dr. Gebien. Dr. Gebien prescribed Fentanyl patches to F as follows:

July 22, 2014:	10 x 50MCG patches
August 7, 2014:	6 x 75MCG patches

**G**

27. G was unknown to Dr. Gebien until 2014. Dr. Gebien was aware that G was a

Percocet user and recruited him to participate in a scheme for obtaining Fentanyl. Between August 18, 2014 and October 29, 2014, Dr. Gebien prescribed G 41 Fentanyl patches through 4 separate transactions. In exchange for transporting the Fentanyl back to Dr. Gebien, G was given 2 to 3 Fentanyl patches from Dr. Gebien per transaction.

28. Dr. Gebien prescribed Fentanyl patches to G as follows:

August 18, 2014	12 x 50MCG patches
September 10, 2014	5 x 50MCG patches
October 8, 2014	12 x 75MCG patches
October 29, 2014	12 x 50MCG patches

## **H**

29. H was unknown to Dr. Gebien until 2014. H was a drug addict; this was not known to Dr. Gebien. Dr. Gebien recruited H to participate in a scheme for obtaining Fentanyl. Between August 22, 2014 and October 21, 2014, Dr. Gebien prescribed 32 Fentanyl patches to H through 3 separate transactions. In exchange for returning the Fentanyl to Dr. Gebien, H was given some Percocet.

30. Dr. Gebien prescribed Fentanyl patches to H as follows:

August 22, 2014	10 x 25MCG patches
September 23, 2014	10 x 50MCG patches
October 21, 2014	12 x 75MCG patches

## **J**

31. J was unknown to Dr. Gebien until 2014. Sometime in 2014, Dr. Gebien approached J and asked if he was interested in obtaining pills. J was an addict; this was not known to Dr. Gebien. Between August 16, 2014 and October 27, 2014, Dr. Gebien prescribed J 47

Fentanyl patches through 4 separate transactions. J was given four to five Fentanyl patches from Dr. Gebien per transaction.

32. Dr. Gebien prescribed Fentanyl patches to J as follows:

August 16, 2014	10 x 50MCG patches
September 18, 2014	15 x 50MCG patches
October 10, 2014	12 x 75MCG patches
October 27, 2014	10 x 75MCG patches

## **K**

33. K was unknown to Dr. Gebien until 2014. K was an addict; this was not known to Dr. Gebien. Dr. Gebien recruited K to participate in a scheme for obtaining Fentanyl. Between September 21, 2014 to October 31, 2014, Dr. Gebien prescribed to K 44 Fentanyl patches of varying dosages. K was given two to four patches per transaction. On one occasion, the pharmacy called Dr. Gebien as they were concerned about the amount of patches given to K. Dr. Gebien told them it was okay to release the patches early. K had to sign a release form. K had been on a methadone program at the time and had a setback in recovery because of this.

34. Dr. Gebien prescribed Fentanyl patches to K as follows:

September 21, 2014	10 x 50MCG patches
September 21, 2014 [same date]	10 x 100MCG patches
October 12, 2014	12 x 50MCG patches
October 31, 2014	12 x 50MCG patches

## **GUILTY OF AN OFFENCE RELEVANT TO SUITABILITY TO PRACTISE**

35. On November 3, 2014, Dr. Gebien was charged by the Barrie Police Service with the following criminal charges:

(a) 6 counts of making a false document under s. 366(1)(a) of the *Criminal Code of Canada*; and

(b) 6 counts of uttering a forged document under s. 368(1)(a) of the *Criminal Code of Canada*.

36. On January 19, 2015, Dr. Gebien was charged with the following additional charges:

(a) Trafficking, Schedule 1, *Controlled Drugs and Substances Act*;

(b) 5 counts of possession, Schedule 1, *Controlled Drugs and Substances Act*;  
and

(c) 6 counts of possession for the purpose of trafficking, Schedule 1, *Controlled Drugs and Substances Act*.

37. On December 12, 2016, in the Ontario Court of Justice, Dr. Gebien pleaded guilty to one count of uttering a forged document, namely, a medical prescription, and one count of trafficking. A transcript of the guilty plea and conviction is attached at Tab 2 to the Agreed Statement of Facts and Admission (Liability).

38. The Crown alleged and the defence conceded that those transactions where Dr. Gebien allowed individuals to keep Fentanyl patches in return for providing him with the remaining patches, constituted the offence of Trafficking in Fentanyl.

39. The Crown further alleged and the defence conceded that those transactions where Dr. Gebien forged prescriptions from other doctors to himself which were then filled by a pharmacist, constituted the offence of trafficking through the doctrine of innocent agency.

40. With respect to those transactions where Dr. Gebien wrote prescriptions to others in his own name as the prescribing doctor but received all of the Fentanyl, the Crown did not seek a judicial finding of trafficking but rather argued (and the defence conceded) that those transactions were aggravating factors given the fraudulent nature of the documents in that the real object of these prescriptions was for the Fentanyl to be returned to Dr. Gebien (which in fact it was) rather than to the person whose name was on the prescription.

41. On April 18, 2017, Dr. Gebien was sentenced by Justice B. Wilson of the Ontario Court of Justice to two years in custody on the count of trafficking and one year in custody, concurrent, on the count of uttering a forged document. Justice Wilson also ordered a period of three years' probation, subject to terms and conditions outlined by the trial judge. A transcript of the sentencing decision is attached at Tab 3 to the Agreed Statement of Facts and Admission (Liability).

42. On December 17, 2017, Dr. Gebien was released on parole.

### **ADMISSION**

43. Dr. Gebien admits the facts specified above, and admits that, based on these facts, he engaged in professional misconduct as follows:

- a) he 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; and,
- b) he has been found guilty of an offence that is relevant to his suitability to practise.

**FINDINGS**

The Committee accepted as correct all of the facts set out in the Agreed Statement of Facts. Having regard to these facts, the Committee accepted Dr. Gebien's Admission and found that he has committed an act of professional misconduct in that he 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; and in that he has been found guilty of an offence that is relevant to his suitability to practise.



## **EVIDENCE ON PENALTY**

### **AGREED STATEMENT OF FACTS ON PENALTY**

The following facts were set out in an Agreed Statement of Facts on Penalty which was filed as an exhibit and presented to the Committee:

#### ***BACKGROUND***

1. Dr. Darryl Jordan Gebien (“Dr. Gebien”) is a 49-year-old physician who practised emergency medicine at Royal Victoria Regional Health Centre in Barrie, Ontario.
2. Dr. Gebien received his certificate of registration in Ontario in March 2009, subject to a practice restriction that Dr. Gebien may only practise emergency medicine under supervision. In February 2011, Dr. Gebien was issued an independent certificate of registration restricted to emergency medicine.
3. Dr. Gebien ceased practising medicine on November 1, 2014, as a result of events described in the Agreed Statement of Facts on Liability, dated February 24, 2020. On May 8, 2016, Dr. Gebien signed a cease to practise undertaking with the College that remains in effect. A copy of the cease to practise undertaking is attached at Tab 1 to the Agreed Statement of Facts on Penalty.

#### ***ONTARIO MEDICAL ASSOCIATION’S PHYSICIAN HEALTH PROGRAM***

4. On January 14, 2015, Dr. Gebien entered into a Substance Dependence Monitoring Contract with the Ontario Medical Association’s Physician Health Program (“PHP”). A copy of the contract is attached at Tab 2 to the Agreed Statement of Facts on Penalty.
5. On June 22, 2016, Judi Platt, Clinical Coordinator with the PHP, wrote to the College to advise that, as per the Premature Termination Policy, the contract had been terminated. A copy of the letter dated June 22, 2016 is attached at Tab 3 to the Agreed

Statement of Facts on Penalty. On December 14, 2018, Dr. Gebien entered into a PHP Moderate to Severe Substance Use Disorder Monitoring Contract, a copy of which is attached at Tab 4 to the Agreed Statement of Facts on Penalty.

6. The contract was suspended on June 20, 2019. A copy of the letter from the PHP dated July 22, 2019 advising of the contract suspension is attached at Tab 5 to the Agreed Statement of Facts on Penalty.

7. Dr. Jake Bobrowski, Addiction medicine specialist, provided the PHP with an independent report regarding an addiction medicine assessment of Dr. Gebien. The report from Dr. Bobrowski dated September 19, 2019 is attached at Tab 6 to the Agreed Statement of Facts on Penalty.

8. On November 25, 2019, Lisa Lefebvre, Associate Medical Director with the PHP, provided Dr. Gebien's counsel with an update regarding Dr. Gebien's status with the PHP. A copy of the letter from the PHP dated November 25, 2019 is attached at Tab 7 to the Agreed Statement of Facts on Penalty.

9. On February 19, 2020, Jordanna Graves, Clinical Coordinator at the PHP, provided Dr. Gebien's counsel with an update regarding Dr. Gebien's status with the PHP. A copy of the letter from the PHP dated February 19, 2020 is attached at Tab 8 to the Agreed Statement of Facts on Penalty.

10. On February 13, 2020, Dr. Chetan Mehta, Substance Use Service, Women's College Hospital, provided the PHP with an update and summary of his care and treatment of Dr. Gebien. A copy of the letter from Dr. Mehta to the PHP dated February 13, 2020, is attached at Tab 9 to the Agreed Statement of Facts on Penalty.

11. Dr. Gebien is a member of a weekly online Caduceus group for healthcare professionals. Caduceus groups are voluntary peer support groups for physicians battling addiction. A copy of a letter from Greg Rennie, Caduceus Online Facilitator, dated February 11, 2020, is attached at Tab 10 to the Agreed Statement of Facts on

Penalty.

***BACK SURGERY***

12. Dr. Gebien underwent back surgery in relation to his back pain on September 11, 2019. A copy of the operative report of Dr. Fehlings dated September 11, 2019, is attached at Tab 11 to the Agreed Statement of Facts on Penalty.

***PRIOR DISCIPLINE HISTORY***

13. Dr. Gebien has no prior discipline history with the College.

***CHANGING SCOPE OF PRACTICE AND RE-ENTRY***

14. As Dr. Gebien has not practiced medicine for more than two years, he is subject to the College's Change of Scope and Practice Re-Entry process outlined in the Policy, "Ensuring Competence: Changing Scope of Practice and/or Re-entering Practice", attached at Tab 12 to the Agreed Statement of Facts on Penalty.

***DR GEBIEN'S TESTIMONY***

Dr. Gebien's problems with substance abuse did not begin with opioids. He testified about his days as an emergency medicine resident in Michigan. Concerns had been raised about Dr. Gebien coming to work with alcohol on his breath. He signed a monitoring agreement in Michigan at the time, and subsequently had a PHP contract when he returned to practice in Ontario. Dr. Gebien testified that he felt these terms were a little bit much and that his alcohol use had not risen to the point of being problematic, but he nevertheless complied with the conditions at the time.

Turning to the factual background to the current matter, Dr. Gebien described becoming addicted to oxycodone following the development of back pain in 2008. His addiction progressed through 2014 by which time he was abusing fentanyl and accessing both drugs through a variety of illegal activities. These included forging prescriptions using colleagues with whom he worked in the emergency room, prescribing opioids to friends

and family and enlisting the help of three staff in the hospital in which he worked to procure fentanyl. Some of these staff subsequently lost their jobs. He also prescribed opioids for a patient in order to have them returned to himself.

Dr. Gebien was emotional in detailing this behavior and was unambiguous that during this period, "I did some pretty horrible things and I hurt people". It was his evidence that his actions were discovered after he stopped taking his usual precautions to avoid detection and in effect allowed his scheme to be exposed. He testified that he did this because, "I chose to live". As such, his addiction and illicit activity were uncovered in November of 2014. He was immediately suspended from his hospital work and charged by police with forging documents (prescriptions) contrary to the *Criminal Code of Canada*. Shortly thereafter, he was also charged with possession and trafficking in controlled substances.

Dr. Gebien admitted himself to Homewood, a detoxification and rehabilitation facility, and spent approximately one month there as an inpatient where the opioids were discontinued, and he was detoxified using a suboxone taper. He was discharged December 11, 2014, off all opioids. He relapsed within days and continued to abuse opioids until January 8, 2015. On January 14, 2015 he contracted to enter into a substance monitoring contract with the PHP. This contract was suspended on June 22, 2016 as confirmed in a letter from the PHP to the College on that date.

There are differing accounts as to why the January 2015 substance monitoring contract was suspended. Dr. Gebien's evidence was that the PHP monitoring contract was terminated because of his pending incarceration and because he was still undergoing rehabilitation. He stated that he had discussed ongoing monitoring with the PHP during his rehabilitation and was told that they did not do monitoring while patients were in rehabilitation programs. In cross examination, counsel for the College suggested that Dr. Gebien's explanation is contradicted by a statement in the Cease to Practice Undertaking subsequently signed by Dr. Gebien with the College on May 8, 2016. In this document, Dr. Gebien acknowledges that the PHP had informed the College on April 20, 2015 that his monitoring contract had been suspended as of March 4, 2015 due to a relapse to

substance abuse disorder. Dr. Gebien disputed this fact as inaccurate and disputed that he had a relapse at the time. He stated that he had overlooked this inaccuracy when he signed the Cease to Practice Undertaking. He maintained that he had been abstinent from opioids as of January 8, 2015.

On January 19, 2015, Dr. Gebien was arrested. He testified that, “That was rock bottom for me “. Dr. Gebien was released on bail on February 5, 2015. He described this period of incarceration as one of reflection, and described positive experiences in connecting with other inmates. This strengthened his resolve to continue his recovery.

After his release on bail, Dr. Gebien began attending “hundreds” of 12 step meetings. He subsequently entered a residential treatment program at the Renascent Center in Toronto, where he spent four weeks and was discharged in April 2015. Feeling that he needed further support in managing his recovery, he subsequently enrolled in another inpatient rehab program at the Vita Nova facility in Woodbridge on August 14, 2015 where he spent approximately five months until January 5, 2016. He testified that he developed a close association with that residential treatment facility, which continues to this day. He still visits the residence regularly and attends their yearly galas.

After discharge from Vita Nova, Dr. Gebien reestablished contact with Dr. Steinman, an addiction medicine physician who had originally been assigned to him by the PHP program. Dr. Steinman ran Caduceus groups, a recovery group for health care professionals, and Dr. Gebien began to attend Dr. Steinman’s Caduceus groups. As well, Dr Gebien continued to attend 12-step recovery groups in the community.

As detailed above, Dr. Gebien entered into a Cease to Practice Undertaking with the College of Physicians and Surgeons in May 2016.

In December 2016, Dr. Gebien pled guilty to charges of forgery and trafficking, and in April 2017 was sentenced to two years in federal prison. He was released on parole on

December 17, 2017. He complied with all of the conditions of his parole and was placed on probation in April 2019. His terms of probation remain in place until April 2022.

After release from prison, Dr. Gebien re-established contact with Dr. Steinman and the PHP and re-entered a monitoring contract in December 2018. He testified that he attended regular Caduceus meetings and complied with the monitoring program.

Dr. Gebien had started a small business installing floors on condominium balconies. In the course of doing this work, he experienced the onset of acute back pain in January 2019. He testified that his back pain was so severe that adjuvant treatments were ineffective and that he felt that the only option was for him to take opioids to manage his pain. Dr. Steinman initially agreed with opioid therapy and provided Percocet prescriptions. When the back pain failed to settle, and Dr. Gebien's use of opioids for his pain management continued, problems developed with this relationship which ultimately led to a breakdown in the therapeutic relationship with Dr. Steinman.

The breakdown of the relationship with Dr. Steinman was explored at length during Dr. Gebien's testimony. A letter written by Dr. Steinman on May 24, 2019 confirming the fact that he could no longer be Dr. Gebien's addiction doctor and listing the reasons for this was filed as evidence. In that letter, Dr. Steinman raised concerns that Dr. Gebien's continued reliance on opioid therapy to manage his pain represented problematic use and that Dr. Gebien was not giving other avenues of therapy for his back pain, such as the use of adjuvant, non-opioid medications and physiotherapy, an adequate trial. Dr. Steinman also raised concerns that Dr. Gebien was not complying with attendance at therapy groups and raised issues regarding Dr. Gebien's behaviour in group sessions and with Dr. Steinman that he stated crossed boundaries in the normal patient-physician relationship. He also stated that Dr. Gebien was not avoiding activities which would predictably exacerbate his pain, such as travelling distances by car to speaking engagements.

In his testimony, Dr. Gebien disagreed with virtually all of Dr. Steinman's concerns and assertions set out in the May 24, 2019 letter, except the assertion that Dr. Gebien did

things that could and did aggravate his pain. Dr. Gebien disputed these assertions vigorously and felt he was being unfairly judged as having relapsed when in fact he felt he deserved and needed treatment with opioids based on the severity of his recurrent back pain. He also testified that his attendance at therapy groups remained robust and maintained that Dr. Steinman's statement that he had been an irregular attendee at group sessions was inaccurate.

When Dr. Steinman terminated their relationship, Dr. Gebien reacted angrily. He explained that he felt he had been abandoned and that Dr. Steinman's assessment was inaccurate and unfair. He denied, however, that the breakdown in this relationship was the reason that his December 2018 PHP monitoring contract was suspended. He stated that he met with PHP staff subsequent to the breakdown in the relationship with Dr. Steinman, and was assured he would be assigned a new addiction medicine specialist and would continue with the PHP program.

Nevertheless, the PHP contract was terminated shortly after he and Dr. Steinman ended their relationship, in July 2019. Dr. Gebien's evidence was that it was stopped because it was impossible for him to comply with biologic monitoring (urine drug testing) as part of the terms of his PHP monitoring contract while on opioids for pain. Dr. Gebien testified that he was upset by this decision, that in his view monitoring should continue as he complied with his visits to his case workers and participation in Caduceus groups.

In cross examination, Dr. Gebien's involvement with the PHP in 2018-2019 was explored. It was clear that he thought the December 2018 PHP contract was too long and had his own ideas about how the process should unfold. He felt he should be given consideration for the time he had been monitored before he was incarcerated, and that this should shorten the length of time he needed to be monitored. However, this request was rejected and Dr. Gebien agreed to the 5-year term. He also was of the opinion that even while on opioids for his acute back pain in early 2019, he could still be considered in compliance with the conditions of his PHP contract and that his monitoring should continue.



Dr. Gebien subsequently came under the care of a new addiction medicine specialist, Dr. Mehta, who prescribed oxycodone for Dr. Gebien's back pain while treating his addiction. At one point there was "confusion" over a prescription written by Dr. Mehta for opioids, which a pharmacy refused to fill. As Dr. Mehta was unavailable, Dr. Gebien was forced to approach his family physician, Dr. Yablonsky for a prescription, as without access to opioids he would go into withdrawal. Dr. Yablonsky was uncomfortable prescribing opioids but did so to comply with Dr. Gebien's request. Dr. Yablonsky subsequently became concerned when he checked Dr. Gebien's story and could not find a record of the prescription responsible for the "confusion". This was because the prescription was issued from a different facility than the one Dr. Yablonsky thought Dr. Gebien was attending to be treated by Dr. Mehta. When the facts became known, this discrepancy was explained, but Dr. Yablonsky, without a full understanding of the facts, felt it was concerning enough to alert the College to the issue. When Dr. Gebien became aware that Dr. Yablonsky had contacted the College, he was upset that Dr. Yablonsky had not notified him or discussed this with him prior to doing so. He strongly expressed his disappointment to Dr. Yablonsky, and explained his reaction as resulting from being "caught off guard" by the incident.

Dr. Gebien underwent back surgery on September 11, 2019. He weaned himself off oxycodone and switched to suboxone in December 2019. This has been weaned and he has been off all opioids since January 11, 2020.

Dr. Gebien testified that he has been in touch with the PHP and is optimistic that he will be accepted into a new monitoring program. He also presented evidence that he has maintained a positive and ongoing relationship with his family physician Dr. Yablonsky. He testified that he has plans to re-enter medical practice. He has been participating in an observership with physicians working in the Addiction Medicine Service at Women's College Hospital. He hopes to concentrate on this area of medicine when he re-enters practice, but also stated that he is considering a return to a practice of emergency medicine "in the future".



## **OTHER EVIDENCE ON PENALTY**

Counsel for Dr. Gebien submitted as evidence records of numerous media appearances or interviews in which Dr. Gebien had shared his story of addiction. Dr. Gebien has been very active in this area with numerous personal appearances and media articles. It was his testimony that he did this to alert people to the problems of opioid abuse and to serve as a warning to others. He also wanted to alert the medical community to the fact that physicians were not immune to the problems of addiction.

A number of letters of support were also entered as evidence on behalf of Dr. Gebien. Many of these were from rehabilitation facilities that Dr. Gebien had engaged with, and they spoke to his genuine desire for change and to the help that he had extended to others with addiction disorders.

Dr. Gebien's Notices of Assessment and/or Notices of Reassessment for tax years 2016, 2017 and 2018 were entered into evidence. They detailed his limited income and also evidenced that during this period, Dr. Gebien had filed for bankruptcy. An Order in respect of Dr. Gebien's bankruptcy was also entered into evidence in support of Dr. Gebien's financial situation.

## **PENALTY AND REASONS FOR PENALTY**

### **POSITION ON PENALTY**

As further set out below, counsel for the College and counsel for Dr. Gebien differed in four main areas in respect of their submissions on penalty:

1. Counsel for the College asked for revocation of Dr. Gebien's certificate of registration, which counsel for Dr. Gebien opposed.

2. Counsel for the College submitted, in the alternative, that a two-year suspension was warranted. Dr. Gebien's counsel proposed a five-month suspension.
3. If a suspension (rather than revocation) was to be ordered, there was disagreement on the terms, conditions and limitations to be placed on Dr. Gebien's license. In summary, the two main areas of disagreement in this regard are:
  - (a) Counsel for the College asked for a complete restriction on Dr. Gebien's ability to prescribe certain enumerated controlled substances, whereas counsel for Dr. Gebien submitted that there should be an exception that permits Dr. Gebien to prescribe those substances for hospital patients; and
  - (c) Counsel for the College asked for numerous terms relating to Dr. Gebien's participation in the PHP program, including terms that permit the College to obtain and share information in respect of Dr. Gebien's compliance with the Committee's order and the terms
4. College counsel asked that costs be awarded for two days of hearings for a total of \$20,740.00. Counsel for Dr. Gebien submitted that this amount should be reduced in half.

Counsel for the College and counsel for Dr. Gebien both submitted that the penalty should include a reprimand. They also both confirmed that if Dr. Gebien was to return to practice, he would need to comply with the College's "Ensuring Competence: Changing Scope of Practice and/or Re-Entering Practice" Policy. Further, they both submitted that participation with the Ontario Medical Association's Physician Health Program (PHP) and compliance with any terms for a health monitoring agreement which the PHP implements were appropriate terms of any order.

## **SUBMISSIONS ON PENALTY**

## College Submissions

### Revocation or Suspension

Counsel for the College submitted that the past conduct of Dr. Gebien was so egregious that revocation of his certificate of registration was warranted.

Counsel for the College pointed out that evidence of Dr. Gebien's advocacy activities and his attempts to rehabilitate himself had been the focus of much of the presentation by the defense. College counsel agreed that these are factors to consider, but asserted that they should not outweigh the other penalty principles used to arrive at a decision. In the College's submission, protection of the public is the paramount guiding principle. The maintenance of public confidence in the integrity of the profession and the College's ability to regulate the profession in the public interest were principles that also required strong representation in the decision-making process on penalty. Deterrence, both specific to Dr. Gebien and more generally to the profession were important factors to consider in arriving at a decision. The College submitted that taking these penalty principles into account warranted revocation of Dr. Gebien's certificate of registration.

The College also submitted, in the alternative, that if revocation were not ordered, a lengthy suspension with clear terms, conditions or limitations was required. This would serve as an appropriate deterrent, would serve the purpose of protecting the public and would allow for a passage of time during which Dr. Gebien could demonstrate long term remission of his addiction illness.

College counsel submitted that similar penalties awarded in prior cases for the same transgressions should be considered in deciding on the length of a suspension. College counsel submitted that a two-year suspension was appropriate, based on the penalty order made in *CPSO vs McArthur*, 2018 ONCPSD 58 ("*McArthur*").

In *McArthur*, as in Dr. Gebien's case, there was a lengthy period where the physician had been out of medical practice. Dr. McArthur had been convicted of trafficking and of forging documents and received a sentence on those charges, as did Dr. Gebien. Both Dr. McArthur and Dr. Gebien had participated in rehabilitation programs. Both had maintained their certificates of practice during their period of incarceration, and while out of practice and indicated a strong desire to return to the practice of medicine. In *McArthur*, the College had sought revocation but ultimately a two-year suspension was imposed.

Counsel for the College referred the Committee to other cases with respect to an appropriate length of any suspension, but submitted that they were not as comparable as the *McArthur* case. *CPSO vs Gill*, 2016 ONCPSD 49 ("*Gill*"), and *CPSO v. Proulx*, 2018 ONCPSD 16, both involved addiction and drug diversion issues, but did not rise to the same level as Dr. Gebien in terms of criminal behavior, and in particular did not include a conviction for drug trafficking. In the one case where a conviction for trafficking had occurred, *CPSO v. Kitakufe*, 2010 ONCPSD 15, addiction and drug abuse by the subject physician were not observed. Accordingly, these cases all differ from Dr. Gebien's case.

#### Terms, Conditions or Limitations

Counsel for the College submitted that if revocation were not to be ordered, the Committee should order the Registrar to impose numerous terms, conditions or limitations on Dr. Gebien's certificate of registration that would be effective on any re-entry to practice by Dr. Gebien. Counsel for the College presented a draft order that contained the specific wording of the requested terms, conditions and limitations.

One of the main consequences of the College's requested terms, conditions and limitations was a complete restriction on Dr. Gebien's ability to prescribe certain enumerated controlled substances. In addition, the terms, conditions or limitations generally required Dr. Gebien to enter into a PHP prior to returning to practice, required the College to approve any return to practice, and permitted the College the ability to monitor Dr. Gebien's compliance by numerous information-sharing terms between the PHP (or

other entities) and the College. Counsel for the College submitted that the unambiguous wording of the proposed terms, conditions and limitations should be clearly spelled out in the decision in order to permit the College to properly monitor Dr. Gebien's compliance with the order.

### Costs

Counsel for the College sought an award of costs for the two-day hearing at the rate established by Tariff A of the Rules of Procedure of the Discipline Committee of the College. While mindful of Dr. Gebien's financial position, Counsel for the College submitted that Dr. Gebien is able to pay three employees in his flooring business, and should be able to pay the College's costs. Counsel also submitted that it was open to Dr. Gebien to arrange a payment arrangement with the College if more time was required.

### **Dr. Gebien's Submissions**

#### Revocation or Suspension

Counsel for Dr. Gebien stressed that Dr. Gebien's transgressions were driven by the illness of addiction and that this fact should be central to the decision-making process on penalty. Counsel pointed out that Dr. Gebien had taken full responsibility for his actions and had actively participated in rehabilitative efforts since the admission of his guilt in November 2014. Not only had he been an active participant in treatment with three different rehabilitation facilities and with the PHP, but he had also partnered with these facilities in follow-up, and had embarked on an extensive campaign in the media to "give back" to the community by sharing his story of addiction and recovery.

Dr. Gebien's counsel cited Dr. Gebien's recent surgery and subsequent weaning from opioids as well as his efforts to re-establish contact and co-operation with the PHP as signs that his positive recovery was ongoing.

Counsel for Dr. Gebien stressed the strong desire on the part of Dr. Gebien to return to the practice of medicine. Counsel provided evidence of Dr. Gebien's continuing CME during the period he has been suspended. Counsel pointed to Dr. Gebien's public speaking on his own story as an illustration of the problems of addiction as evidence of his strong motivation to give back to the community. According to his counsel, Dr. Gebien's recent



involvement as an observer with the addiction medicine service at Women's College Hospital was a clear indication of his strong motivation to return to practice.

In terms of the length of suspension, counsel for Dr. Gebien also submitted that penalties imposed in prior cases should be a consideration when deciding on the length of suspension, but it was his submission that the appropriate comparator case was *Gill*. In that case, as with Dr. Gebien, rehabilitation had been embraced very early and continued up to the day of his hearing. Both Dr. Gill and Dr. Gebien indicated a strong desire to return to practice and had taken full responsibility for their transgressions. Counsel for Dr. Gebien felt that the cases were so similar that the same penalty of a four-month suspension imposed in *Gill* should be applied to Dr. Gebien.

In terms of distinguishing Dr. Gebien's circumstances from those in *McArthur*, counsel pointed out that Dr. McArthur's transgressions included defrauding the Ontario Drug Benefit program. Counsel also referred to Dr. McArthur's repeated relapses and the fact that Dr. McArthur's own evidence was that she felt that she was not yet ready to enroll in the PHP program, which would be a prerequisite for a return to practice. In counsel's submission, these represented significant differences and strengthened the argument that the appropriate comparator in this case was *Gill*.

In counsel's submission, Gebien's transgressions had occurred in the context of a severe period of illness that was, and had been since January 8, 2015, in remission. In arguing for a shorter period of suspension, counsel pointed to the fact that Dr. Gebien had already been out of practice for five years and spent time in jail. These represented significant punishments and should be taken into consideration in reducing the length of time of a suspension.

#### Terms, Conditions or Limitations

Counsel for Dr. Gebien opposed the detailed terms, conditions or limitations requested by the College.

In respect of the College's requested prescribing limitation, both Dr. Gebien and his counsel confirmed that Dr. Gebien was willing to accept a prescribing restriction, but requested a carve-out permitting the prescription of the enumerated substances to inpatients during the course of their inpatient stay and only through the hospital pharmacy. This was the same carve-out that was ordered by the Committee in *Gill*.

In respect of the other terms, conditions or limitations, counsel for Dr. Gebien pointed out that Dr. Gebien remains bound by the conditions of the Cease to Practice Undertaking which he signed with the College on May 8, 2016, which specifies that only after the Medical Director of the PHP communicates to the College his or her belief that Dr. Gebien is ready to return to practice would Dr. Gebien be able to apply to practice medicine. In Dr. Gebien's counsel's submissions, compliance with PHP is best monitored by the PHP, and the provisions in the PHP contract, the re-entry policy, and the Cease to Practice Undertaking are sufficient to ensure that the public is protected. Dr. Gebien's counsel submitted further that it is not the role of the Committee to be in the business of monitoring health status on an ongoing basis.

### Costs

Citing the modification of costs in *McArthur* and Dr. Gebien's financial position, counsel for Dr. Gebien asserted that Dr. Gebien should be responsible for only half the costs of the two-day hearing. It was counsel's submission that, as Dr. Gebien had not practiced medicine since 2014, he was struggling financially to support his family and that the costs for the hearing sought by the College should be reduced by 50%.

The Committee remains mindful of the principles governing penalty decisions, which are well established. These include, first and foremost, protection of the public. The penalty must also serve to maintain the integrity of the profession and public confidence in the College's ability to regulate the profession in the public interest. It must consider specific and general deterrence, and where appropriate the rehabilitation and remediation

potential of the subject physician. Other principles include denunciation of the misconduct and proportionality.

### **Aggravating factors**

Aggravating factors that the Committee took into account included the fact that Dr. Gebien engaged in significant criminal activity. It is extremely serious for a person in his role as a physician to be convicted of trafficking narcotics. He abused his position as a physician to involve a number of colleagues, staff at the hospital and a patient in his pursuit of drugs. The fact that he continued to practice as an ER physician while using drugs was an aggravating factor. Finally, some of the drugs that he obtained were unaccounted for, suggesting they had entered the community which increases the seriousness of Dr. Gebien's misconduct.

### **Mitigating factors**

Mitigating factors that the Committee took into account included the fact that Dr. Gebien had no previous disciplinary proceedings before the College. He ceased practice immediately when his addiction issues were uncovered, was remorseful and co-operated fully with the College investigation. His behavior was the result of an illness, and he was an early participant in the PHP program and had sought out, and was an enthusiastic participant in, extensive programs of rehabilitation. He remains involved with two of these programs and has begun to mentor others who are addicted. He has shown insight into his problems of addiction and had embarked on a program of public speaking with frank reference to his own situation to raise awareness of the consequences of opioid addiction among health care professionals. His admission on liability spared the need for a lengthy discipline hearing and saved witnesses from testifying at the hearing .

### **Rehabilitation and Remediation Potential**

Much evidence was heard regarding Dr. Gebien's participation in treatment and his potential for rehabilitation. In this case, the potential for rehabilitation is an important penalty principle for the Committee to consider. Dr. Gebien has participated extensively in treatment since admitting to his illness in December 2014 but there has been fragmentary involvement with the PHP. The reasons for the fragmented involvement with the PHP and the significance of this was central to arguments made by counsel for the College and counsel for Dr. Gebien regarding his rehabilitation potential.

One area where there was dispute around Dr. Gebien's potential for rehabilitation centered around his relationship with his treating physicians over the course of his illness. Evidence focused on the breakdown in his relationship with his addiction medicine physician, Dr. Steinman, who clearly felt that Dr. Gebien lacked insight into his addiction and was noncompliant with his PHP contract.

The PHP asked for an Independent Medical Evaluation from Dr. Bobrowski, a specialist in addiction medicine. His report from September 19, 2019 was entered as evidence and the Committee relied on it heavily in arriving at conclusions regarding Dr. Gebien's illness and treatment. It was Dr. Bobrowski's opinion that Dr. Gebien had complied with treatment and that the severe pain recurrence represented a legitimate indication for resuming opioid use. In particular, it was Dr. Bobrowski's assessment that "There is no evidence to indicate that Dr. Gebien relapsed to his severe opioid use disorder or that his intercurrent use of narcotic analgesics manifested as an instability of his addictive illness."

Dr. Bobrowski did, however, also make observations that Dr. Gebien at times exhibited poor judgement in complying with some of the treatment prescribed and had difficulty at accepting the role of a patient. He stated that "Dr. Gebien needs to be fully invested in his addiction treatment, rather than assuming the role of the medical professional who has demonstrated limited insight and judgement into his responsibilities as a patient."

The Committee finds that the balance of the evidence supports the conclusion that the termination of treatment with the PHP in 2015 was the result of Dr. Gebien's incarceration

and rehabilitation process. The issue leading to the 2019 decision of the PHP to suspend Dr. Gebien's monitoring program was his need for opioids to manage recurrent low back pain which began within months after he returned to the PHP. In a letter from the PHP, it was made clear that the monitoring contract was suspended "...as per PHP policy....as Dr. Gebien had been experiencing an acute exacerbation of chronic back pain requiring a re-evaluation of his treatment."

The Committee accepted that Dr. Gebien is strongly motivated to maintain his recovery despite the circumstances that led to the prior monitoring contracts being suspended. Dr. Gebien has shown significant recovery to date. While accepting Dr. Gebien's strong motivation, the Committee remains concerned about the chronic nature of Dr. Gebien's illness and his challenges at times in accepting his treating physicians' recommended course of treatment. The Committee notes his long history of substance related issues that began with the signing of a monitoring agreement in 2004 while he was a resident in Michigan, around his use of alcohol. He demonstrated a concerning tendency to downplay the significance of these past issues. The Committee is concerned that Dr. Gebien may have his own ideas about how long and under what conditions the PHP program should manage his illness. He did not seem to accept that the PHP would be unable to monitor him while he was taking oxycodone-containing compounds. His difficulty in accepting the role of patient will likely remain a significant challenge for him to overcome. Dr. Gebien himself admitted during testimony that he struggles viewing himself as a patient, and overcoming this will be the most significant factor in his long term recovery.

### **Prior Cases**

In determining penalty, the Committee did consider penalties made in similar cases, as it was urged to do by both sides during their submissions.

In arguing for a shorter suspension, counsel for Dr. Gebien cited the *Gill* decision, which resulted a four-month suspension, while counsel for the College argued that the

comparator should be the decision in *McArthur*, suspension for two years. There were similarities and differences in both cases.

In *McArthur*, jail time and trafficking convictions were similar to the facts in Dr. Gebien's case. There was, however, also the issue of defrauding the Ontario Drug Benefit plan which made Dr. McArthur's transgressions more egregious. As well, Dr. McArthur, at the time of her hearing, had failed treatment on more than one occasion and the prospects for rehabilitation were much less evident when compared with Dr. Gebien.

In *Gill*, the member's potential for rehabilitation was very similar to Dr. Gebien's situation, although Dr. Gill had also been compliant with the PHP for a year prior to his hearing. Dr. Gill's transgressions, however, were less egregious than those of Dr. Gebien. He was not charged with drug trafficking and there was no incarceration.

## **DECISION ON PENALTY**

The Committee considered the College's request for an order instructing the Registrar to revoke Dr. Gebien's certificate of registration. In the circumstances of this case, the Committee finds that revocation is not warranted. While Dr. Gebien's conduct was egregious, it occurred during a period of addiction, and Dr. Gebien has shown significant ability to rehabilitate since that time. There is no reason for the Committee to doubt that Dr. Gebien's positive rehabilitation will continue.

The Committee determined that a suspension of an appropriate length, with terms, conditions or limitations on any re-entry into practice, sufficiently serves the penalty principles identified above. Taking into account the penalty principles and the penalties imposed in similar cases by the Committee in the past, the Committee finds that a suspension of 14 months is appropriate. This is roughly the midway point between the suspensions in the *McArthur* and *Gill* cases. This length of suspension is warranted, given Dr. Gebien's actions.

A suspension of this length ensures the protection of the public, as it permits Dr. Gebien to demonstrate long term remission of his addiction illness and continue his positive rehabilitation. As will be set out below, the Committee has also ordered that certain terms, conditions and limitations be placed on Dr. Gebien's license, which will further the protection of the public.

A suspension of this length also serves as specific and general deterrence. While Dr. Gebien has been out of practice for some time, it remains important for the Committee to reflect the egregious nature of Dr. Gebien's actions, which will ensure public confidence in the College's ability to regulate the profession in the public interest. However, this penalty also takes into account the rehabilitation that Dr. Gebien has demonstrated, in that he may be permitted to return to practice in the future, subject to the terms, conditions and limitations placed on his license.

Counsel for Dr. Gebien submitted that the Committee should take into account the fact that Dr. Gebien has already paid a significant price for his actions, including being criminally sentenced and serving jail time. Although criminal incarceration was imposed for Dr. Gebien's behavior, the Committee felt that this should not greatly mitigate what it considers to be the appropriate penalty from a regulatory perspective. A strong and independent regulatory response is necessary to ensure confidence in the College's ability to protect the public from the considerable harms generated by behaviors such as the ones displayed by Dr. Gebien, as well as to serve as a specific and general deterrent.

### **Terms, Conditions or Limitations**

The Committee turns now to the issue of terms, conditions or limitations on Dr. Gebien's certificate of practice. The Committee finds that this is an appropriate case to impose terms, conditions or limitations.

As set out above, Dr. Gebien's counsel opposed a complete ban on prescribing controlled substances, and submitted that the exception provided in *Gill* is also appropriate for Dr.

Gebien. The Committee notes differences in the *Gill* situation, when compared to Dr. Gebien's situation. Dr. Gill (who was ultimately permitted to prescribe controlled substances to hospital in-patients, only during the course of their in-patient stay and only through the hospital pharmacy) was an internist and the bulk of his work involved hospital inpatients. It was clear that after his suspension he would return to hospital work and that it would be impossible for him to practice as an internist without a modification to allow him to prescribe within the hospital.

Dr. Gebien did express some interest in returning to work as an emergency room physician, but agreed this was far from certain and represented a very long-term goal. He was asked about the view expressed in Dr. Bobrowski's assessment that Dr. Gebien should not be in a workplace where he would have access to controlled drugs and opioids, and he agreed with the view and understood that would make it difficult to work in an emergency room. He was clear in his testimony that his immediate plan was to develop a practice treating patients with addictive disorders when he was reinstated.

In addition, as set out above, Dr. Gill's transgressions were less egregious than those of Dr. Gebien.

After consideration of the parties' respective submissions, the Committee finds that the terms, conditions and limitations proposed by the College in respect of the ban of prescribing controlled substances are warranted. Given the nature of Dr. Gebien's actions, ensuring that Dr. Gebien's ability to prescribe controlled substances is completely removed fulfills the penalty principles, including the protection of the public. It does not appear that this will unduly restrict Dr. Gebien's ability to return to practice, given his stated plans in that regard.

### **Other Terms, Conditions or Limitations**

The Committee also considered the other terms, conditions, or limitations requested by the College. The terms requested by the College are generally targeted at ensuring the College has the power to fully monitor Dr. Gebien's compliance with the Committee's



order, including through information-sharing with the PHP. Given the serious nature of Dr. Gebien's misconduct, the Committee finds that the terms, conditions and limitations requested by the College are reasonable and orders that they are to be placed on Dr. Gebien's certificate of registration. As previously detailed, the Committee finds that Dr. Gebien's situation is not the same as Dr. Gill's situation, and more thorough terms, conditions and limitations in this regard are warranted. If Dr. Gebien is to return to practice, the College should be provided the ability to ensure that he does so in a manner that protects the public and maintains public confidence in the College's ability to regulate the profession in the public interest. The Committee finds that the scope of the requested terms, conditions and limitations are reasonable in this regard.

Ultimately, the PHP will be responsible for monitoring Dr. Gebien's progress and ensuring that he remains in remission and that when he returns to practice he will not represent a threat to the public. The Committee has confidence in this process and sees that it represents a clear path back to the practice of medicine for Dr. Gebien. The terms, conditions or limitations do not attempt to usurp the role of the PHP, and the Committee is not able to bind the PHP. Rather, they are aimed at ensuring the College is able to monitor Dr. Gebien's actions after any return to practice. They serve both to guide his recovery and to ensure that the public is protected when he returns to practice. Given the length of time Dr. Gebien has been out of practice, and the existing Cease to Practice Undertaking, the Committee finds it is reasonable that both the PHP and the College be involved in any decision to allow Dr. Gebien to return to practice.

In addition, as with the length of the suspension, it remains important for the Committee to reflect the egregious nature of Dr. Gebien's actions to serve as specific and general deterrence and ensure public confidence in the College's ability to regulate the profession in the public interest.

## **Costs**

The Committee was mindful of the financial pressures experienced by Dr. Gebien. In respect of the costs order made in the *McArthur* case, the Committee noted that Dr. McArthur was nearly destitute, whereas Dr. Gebien had a small business that he noted was “doing well”. His business had expanded to the point where he employed two other workers. Costs are in the discretion of the Committee. The Committee finds that the College’s request is reasonable and is not convinced that it should reduce the Tariff rate for the two-day hearing. However, the Committee is mindful of Dr. Gebien’s financial circumstances and is prepared to provide him more than the typical 30 days to pay, especially in light of the current COVID-19 pandemic. Accordingly, the Committee orders costs for two days of hearing at the Tariff rate, payable within 180 days.

## **ORDER**

Therefore, the Committee orders and directs on the matters of finding and penalty:

1. **THE DISCIPLINE COMMITTEE FINDS** that Dr. Gebien committed an act of professional misconduct under:
  - (i) Paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, in that he has engaged in 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;
  - (ii) Clause 51(1)(a) of the Health Professions Procedural Code, which is Schedule 2 of the *Regulated Health Professions Act, 1991*, in that he has been found guilty of an offence relevant to his suitability to practice.
2. **THE DISCIPLINE COMMITTEE DIRECTS** Dr. Gebien to attend before the panel to be reprimanded.

3. **THE DISCIPLINE COMMITTEE DIRECTS** the Registrar to suspend Dr. Gebien's certificate of registration for a period of fourteen (14) months, to commence immediately.
  
4. **THE DISCIPLINE COMMITTEE DIRECTS** the Registrar to place the following terms, conditions or limitations on Dr. Gebien's certificate of registration effective immediately.
  - (i) Upon his return to practice, Dr. Gebien shall comply with the College Policy: Ensuring Competence: Changing Scope of Practice and/or Re-Entering Practice.
  
  - (ii) Dr. Gebien shall inform the College of any and all new Practice Locations within fifteen (15) days of commencing practice at that location;
  
  - (iii) Prior to his return to practice, Dr. Gebien shall, at his own expense, enter into a health monitoring agreement with the Ontario Medical Association's Physician Health Program ("PHP Agreement");
  
  - (iv) Dr. Gebien shall not return to practise until he has entered into a PHP Agreement, the PHP has approved his return to work, and the College has approved his return to work;
  
  - (v) Dr. Gebien shall abide by any requirements of the College in approving his return to work, including entering into an undertaking as required by the College;
  
  - (vi) Dr. Gebien shall provide his irrevocable consent to information-sharing/reporting between the College and the PHP, as well as workplace monitors and treating health professionals and any other persons necessary in order for the College to receive information relevant to his compliance with these or any other terms of this Order;

- (vii) In addition to the consent provision above, Dr. Gebien shall request that the PHP provide reports to the College at minimum on a twice a year basis or as otherwise requested by the College;
- (viii) Dr. Gebien shall remain in the PHP Agreement and shall fully comply with the requirements of the PHP Agreement and any restrictions imposed by the PHP Agreement prior to his return to practice;
- (ix) In the event that Dr. Gebien terminates his relationship with the PHP, or his PHP Agreement is suspended by the PHP, such action may constitute a breach of this Order:
- (x) Dr. Gebien shall provide his irrevocable consent to the College to provide the following information to any person who requires this information for the purposes of facilitating his compliance with a PHP Contract:
  - (a) information relevant to the making of this Order;
  - (b) information relevant for the purposes of monitoring compliance with this Order;
  - (c) information which they reasonably believe indicates a potential risk of harm to patients.
- (xi) Dr. Gebien shall provide his irrevocable consent to the College to provide this Order to any Chief(s) of Staff, or a colleague with similar responsibilities, at any hospital or Practice Location at which he practises or have privileges ("Chief(s) of Staff"), and to provide said Chief(s) of Staff with any information the College has that led to the circumstances of this Order and/or any information arising from the monitoring of Dr. Gebien's compliance with this Order;

#### Prescribing Restrictions

- (xii) Dr. Gebien shall not issue new prescriptions or renew existing prescriptions for or administer any of the following substances:

- (a) **Narcotic Drugs** (from the Narcotic Control Regulations made under the *Controlled Drugs and Substances Act*, S.C., 1996. c. 19);
- (b) **Narcotic Preparations** (from the Narcotic Control Regulations made under the *Controlled Drugs and Substances Act*, S.C. 1996. c. 19);
- (c) **Controlled Drugs** (from Part G of the Food and Drug Regulations under the *Food and Drugs Act*, S.C. 1985. c. F-27);
- (d) **Benzodiazepines and Other Targeted Substances** (from the Benzodiazepines and Other Targeted Substances Regulations made under the *Controlled Drugs and Substances Act*, S.C. 1996. c. 19):

(A summary of the above-named drugs [from Appendix I to the Compendium of Pharmaceuticals and Specialties] is attached as **Schedule “A”** to this Order; and links to the current regulatory lists are attached as **Schedule “B”** to this Order)

- (e) **Monitored Drugs** (as defined under the *Narcotics Safety and Awareness Act, 2010*, S.C. 2010, c. 22. with a link to the current regulatory list attached as **Schedule “C”** to this Order);

and as amended from time to time.

5. **THE DISCIPLINE COMMITTEE ORDERS** Dr. Gebien to execute the Prescribing Resignation Letter to Health Canada. which is attached as **Schedule “D”** to this Order (the “Resignation Letter”) within thirty (30) days of the date of this Order and shall consent to the College sending the Resignation Letter to Health Canada on his behalf.

6. **THE DISCIPLINE COMMITTEE ORDERS** Dr. Gebien to consent to the College making enquiries of the Ontario Health Insurance Program, the Narcotics Monitoring System and/or any person or institution that may have relevant information, in order for the College to monitor his compliance with this Order and

shall promptly sign such consents as may be necessary for the College to obtain information from these persons or institutions;

7. **THE DISCIPLINE COMMITTEE ORDERS** Dr. Gebien to pay costs to the College in the amount of \$20,740.00 within 180 days of the date of this Order.

**TEXT of PUBLIC REPRIMAND**  
**Delivered April 12, 2021**  
**in the case of the**  
**COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO**  
**and**  
**DR. DARRYL JORDAN GEBIEN**

*This is not an official transcript*

Dr. Gebien:

The Committee expresses its condemnation of your actions. The fraudulent activities you engaged in to support your drug dependency while acting as a physician in the emergency department of RVH in Barrie harmed individuals and undermined the public's trust in the medical profession.

From August 10, 2013 to November 3, 2014, you prescribed 445 Fentanyl patches to 10 people plus yourself, allowing some individuals to retain some of the Fentanyl patches for their own use while passing on the remainder to you, which caused you to be charged and convicted of trafficking in Fentanyl.

While the Committee recognizes that your actions were driven by an illness of addiction, the consequences of your actions are serious and cannot be overlooked. Your employees lost their jobs and three of the strangers you recruited were drug addicts whose dependency you fostered. Your forging of your colleague's signatures on prescriptions can only undermine the trust and confidence colleagues have in each other. Further, for a physician to be convicted of uttering a forged document and trafficking is a disgrace and does serious damage to the reputation of the profession and the public's trust in the profession.

We recognize that you have accepted full responsibility and have shown remorse for your actions and have actively participated in a number of rehabilitation programs since your admission of guilt. We appreciate that you have engaged in efforts to "give back" to the

community through sharing your story of addiction and recovery with many groups and through the media.

We are aware that you are continuing in a number of rehabilitation programs and we wish you well as you continue your journey to recovery from your drug addiction.

Upon your return to the practice of medicine, we expect that you will remember the trust the public and colleagues place in you as a physician and that you will not abuse that trust for any reason.

***This is not an official transcript***



**SCHEDULE "A"**

**TO THE ORDER OF  
THE DISCIPLINE COMMITTEE OF THE  
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

**B E T W E E N:**

**COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

**- and -**

**DARRYL JORDAN GEBIEN**

**Summary of Narcotic and Controlled Drug Regulations taken from the  
Compendium of Pharmaceuticals and Specialties (CPS)**

## Narcotic and Controlled Drug Regulations

Office of Controlled Substances, Health Canada

*Date of Revision: December 2018*

Table 1 summarizes the requirements for prescribing, dispensing and record-keeping for narcotics, controlled drugs, benzodiazepines and other targeted substances. This document is not intended to be a comprehensive review of the topic. The reader is therefore encouraged to seek additional and confirmatory information (e.g., Controlled Drugs and Substances Act, Narcotic Control Regulations, Food and Drug Regulations parts G and J, Benzodiazepines and Other Targeted Substances Regulations, New Classes of Practitioners Regulations and the Regulations Amending Certain Regulations to Access of Restricted Drugs).

Unauthorized forms of cocaine continue to be regulated as a “restricted drug” under Part J of the *Food and Drug Regulations*. Cocaine that meets one of the following criteria continues to be regulated as a “narcotic” under the *Narcotic Control Regulations*:

- A drug in dosage form, that has a Drug Identification Number (DIN) assigned to it under the *Food and Drug Regulations* (i.e., market authorized); or,
- A drug in dosage form authorized for sale for a clinical trial; or,
- A drug compounded by a pharmacist in accordance with or in anticipation of the receiving of a written prescription from a practitioner with timeliness.

**Table 1:** Narcotic and controlled Drugs, Benzodiazepines and Other Targeted Substances: Summary of Requirements:

Classification and Description	Legal Requirements
<p><b>Narcotic Drugs<sup>[a]</sup></b></p> <ul style="list-style-type: none"> <li>• 1 narcotic (e.g., codeine, hydromorphone, ketamine, morphine)</li> <li>• 1 narcotic + 1 active non-narcotic ingredient (e.g., Novahistex DH, Tylenol No. 4)</li> <li>• All narcotics for parenteral use (e.g., fentanyl, pethidine)</li> <li>• All products containing hydrocodone, oxycodone, methadone or pentazocine</li> <li>• Destropropoxyphene (e.g., Darvon-N, 641)</li> <li>• Nabilone (i.e., Cesamet)</li> </ul>	<ul style="list-style-type: none"> <li>• Written prescription required.</li> <li>• Verbal prescriptions not permitted.</li> <li>• Refills not permitted.</li> <li>• Written prescriptions may be prescribed to be dispensed in divided portions (part-fills).</li> <li>• For part-fills, copies of prescriptions should be made in reference to the original prescription. Indicate on the original prescription: the new prescription number, the date of the part-fill, the quantity dispensed and the pharmacist’s initials.<sup>[b]</sup></li> <li>• Transfers not permitted.</li> <li>• Record and retain all documents pertaining to all transactions for a period of at least 2 years, in a manner that permits an audit.</li> <li>• Report any loss or theft of narcotic drugs within 10 days after the discovery date to the Office of Controlled Substances at the address indicated on the forms.</li> </ul>

<p><b>Narcotic Preparations<sup>[a]</sup></b></p> <ul style="list-style-type: none"><li>• Verbal prescription narcotics: 1 narcotic + 2 or more active non-narcotic ingredients in a recognized therapeutic dose (e.g., Fiorinal- C¼, Fiorinal-C½,, Robitussin AC, 282, 292, Tylenol No. 2, Tylenol No. 3)</li><li>• Exempted codeine compounds: contain codeine up to 8 mg/solid dosage form or 20 mg/30 mL liquid + 2 or more active non-narcotic ingredients (e.g., Atasol-8)</li></ul>	<ul style="list-style-type: none"><li>• Written or verbal prescriptions permitted.</li><li>• Refills not permitted.</li><li>• Written or verbal prescriptions may be prescribed to be dispensed in divided portions (part-fills).</li><li>• For part-fills, copies of prescriptions should be made in reference to the original prescription. Indicate on the original prescription: the new prescription number, the date of the part-fill, the quantity dispensed and the pharmacist's initials.<sup>[b]</sup></li></ul>
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Classification and Description	Legal Requirements
	<ul style="list-style-type: none"> <li>• Transfers not permitted.</li> <li>• Exempted codeine compounds when dispensed pursuant to a prescription follow the same regulations as for verbal prescription narcotics.</li> <li>• Record and retain all documents pertaining to all transactions for a period of at least 2 years, in a manner that permits an audit.</li> <li>• Report any loss or theft of narcotic drugs within 10 days after the discovery date to the Office of Controlled Substances at the address indicated on the forms.</li> </ul>
<p><b>Controlled Drugs<sup>[a]</sup></b></p> <ul style="list-style-type: none"> <li>• Part I Amphetamines (e.g., Dexedrine, Adderall XR) Methylphenidate (e.g., Biphentin, Concerta, Ritalin) Pentobarbital Preparations: 1 controlled drug + 1 or more active noncontrolled ingredient(s) in a recognized therapeutic dose</li> </ul>	<ul style="list-style-type: none"> <li>• Written or verbal prescriptions permitted.</li> <li>• Refills not permitted for verbal prescriptions.</li> <li>• Refills permitted for written prescriptions if the prescriber has indicated in writing the number of refills and dates for, or intervals between, refills</li> <li>• Written or verbal prescriptions may be prescribed to be dispensed in divided portions (part-fills)</li> <li>• For refills and part-fills, copies of prescriptions should be made in reference to the original prescription. Indicate on the original prescription: the new prescription number, the date of the repeat or part-fill, the quantity dispensed and the pharmacist's initials.<sup>[b]</sup></li> <li>• Transfers not permitted.</li> <li>• Record and retain all documents pertaining to all transactions for a period of at least 2 years, in a manner that permits an audit.</li> <li>• Report any loss or theft of controlled drugs within 10 days after the discovery date to the Office of Controlled Substances at the address indicated on the forms.</li> </ul>
<p><b>Controlled Drugs<sup>[a]</sup></b></p> <ul style="list-style-type: none"> <li>• Part II Barbiturates (e.g., phenobarbital) Butorphanol Nalbuphine (e.g., Nubain Injection) Preparations: 1 controlled drug + 1 or more active noncontrolled ingredient(s) in a recognized therapeutic dose (e.g., Fiorinal</li> </ul>	<ul style="list-style-type: none"> <li>• Written or verbal prescriptions permitted.</li> <li>• Refills permitted for written or verbal prescriptions if the prescriber has authorized in writing or verbally (at the time of issuance) the number of refills and dates for, or intervals between, refills.</li> <li>• Written or verbal prescriptions may be prescribed to be dispensed in divided portions (part-fills).</li> <li>• For refills and part-fills, copies of prescriptions should be made in reference to the original prescription. Indicate on the original prescription: the new prescription number, the date of the repeat or part-fill, the quantity dispensed and the pharmacist's initials.<sup>[b]</sup></li> <li>• Transfers not permitted.</li> <li>• Record and retain all documents pertaining to all transactions for a period of at least 2 years, in a manner that permits an audit.</li> <li>• Report any loss or theft of controlled drugs within 10 days after the discovery date to the Office of Controlled Substances at the address indicated on the forms.</li> </ul>

Classification and Description	Legal Requirements
<b>Controlled Drugs<sup>[a]</sup></b> <ul style="list-style-type: none"> <li>Part III           <p>Anabolic steroids including:</p> <p>Testosterone (e.g., Androderm)</p> <p>Testosterone cypionate (e.g., Depo-Testosterone)</p> <p>Testosterone undecanoate (e.g., Andriol)</p> </li> </ul>	<ul style="list-style-type: none"> <li>Written or verbal prescriptions permitted.</li> <li>Refills permitted for written or verbal prescriptions if the prescriber has authorized in writing or verbally (at the time of issuance) the number of refills and dates for, or intervals between, refills.</li> <li>Written or verbal prescriptions may be prescribed to be dispensed in divided portions (part-fills).</li> <li>For refills and part-fills, copies of prescriptions should be made in reference to the original prescription. Indicate on the original prescription: the new prescription number, the date of the repeat or part-fill, the quantity dispensed and the pharmacist's initials.<sup>[b]</sup></li> <li>Transfers not permitted.</li> <li>Record and retain all documents pertaining to all transactions for a period of at least 2 years, in a manner that permits an audit.</li> <li>Report any loss or theft of controlled drugs within 10 days after the discovery date to the Office of Controlled Substances at the address indicated on the forms.</li> </ul>
<b>Benzodiazepines and Other Targeted Substances<sup>[a]</sup></b> <p>Alprazolam</p> <p>Bromazepam</p> <p>Chlordiazepoxide</p> <p>Clobazam</p> <p>Diazepam</p> <p>Ethchlorvynol</p> <p>Lorazepam</p> <p>Oxazepam</p> <p>Temazepam</p> <p>Triazolam</p>	<ul style="list-style-type: none"> <li>Written or verbal prescriptions permitted.</li> <li>Refills for written or verbal prescriptions permitted if indicated by prescriber and less than 1 year has elapsed since the day the prescription was issued by the practitioner.</li> <li>Part-fill permitted as per prescriber's instructions..</li> <li>For refills or part-fills of prescriptions, record the following information: date of the repeat or part-fill, prescription number, quantity dispensed and the pharmacist's initials.</li> <li>Transfer of prescriptions permitted except for a prescription that has been already transferred.</li> <li>Record and retain all documents pertaining to all transactions for a period of at least 2 years, in a manner that permits an audit.</li> <li>Report any loss or theft of benzodiazepines and other targeted substances within 10 days after the discovery date to the Office of Controlled Substances at the</li> </ul>
Meprobamate	

<sup>[a]</sup> The products noted are examples only.

<sup>[b]</sup> If the software used in the pharmacy allows at a minimum the effective monitoring between part-fills (quantity, date, prescription number), and the original order to allow verification and prevent the risk or potential risks of fraud, reference copies to not need to be made.

*This information is not intended to present a comprehensive review; clients are therefore encouraged to seek additional confirmatory information. Not intended for use by patients. CPhA assumes no responsibility for, or liability in connection with the use of this information. Once printed there is no guarantee the information is up-to-date. [Printed on: 12-28-2018]*

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**SCHEDULE "B"**

**TO THE ORDER OF  
THE DISCIPLINE COMMITTEE OF THE  
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

**B E T W E E N:**

**COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

**- and -**

**DR. DARRYL JORDAN GEBIEN**

**CURRENT REGULATORY LISTS**

- **Narcotic Drugs and Preparations**

(from the Schedule to the Narcotic Control Regulations made under the *Controlled Drugs and Substances Act*, S.C., 1996, c. 19)

Available at: <https://laws-lois.justice.gc.ca/eng/Regulations/C.R.C., c. 1041/>

- **Controlled Drugs**

(from the Schedule to Part G of the Food and Drug Regulations made under the *Food and Drugs Act*, R.S.C., 1985, c. F-27)

Available at: <https://laws-lois.justice.gc.ca/eng/regulations/c.r.c., c. 870/>

- **Benzodiazepines/Other Targeted Substances**

(from Schedules 1 and 2 to the Benzodiazepines and Other Targeted Substances Regulations made under the *Controlled Drugs and Substances Act*, S.C., 1996, c. 19)

Available at: <https://laws-lois.justice.gc.ca/eng/regulations/sor-2000-217/>

**SCHEDULE "C"**

**TO THE ORDER OF  
THE DISCIPLINE COMMITTEE OF THE  
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

**B E T W E E N:**

**COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

**- and -**

**DARRYL JORDAN GEBIEN**

**LIST OF MONITORED DRUGS**

From section 2 of Ontario Regulation 381/11 made under the *Narcotics Safety and Awareness Act, 2010*, S.O. 2010, c. 22)

Available at:

[http://www.health.gov.on.ca/en/pro/programs/drugs/monitored\\_productlist.aspx](http://www.health.gov.on.ca/en/pro/programs/drugs/monitored_productlist.aspx)

**SCHEDULE "D"**

**TO THE ORDER OF  
THE DISCIPLINE COMMITTEE OF THE  
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

**B E T W E E N:**

**COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

**- and -**

**DARRYL JORDAN GEBIEN**

**PRESCRIBING RESIGNATION  
NOTIFICATION LETTER TO HEALTH CANADA**



**To the Director of the Office of Controlled Substances, Health Canada:**

I, **Dr. Darryl Jordan Gebien**, am a member of the College of Physicians and Surgeons of Ontario ("the College"). I have entered into an undertaking with the College to cease prescribing any and all of the following:

- Narcotic Drugs (from the Narcotic Control Regulations made under the Controlled Drugs and Substances Act, S.C., 1996, c. 19) ("Narcotic Control Regulations");
- Narcotic Preparations (from the *Narcotic Control Regulations*);
- Controlled Drugs (from Part G of the *Food and Drug Regulations* made under the *Food and Drugs Act*, S.C., 1985, c. F-27) ("*Food and Drug Regulations*");
- Benzodiazepines/Other Targeted Substances (from the Benzodiazepines and Other Targeted Substances Regulations made under the Controlled Drugs and Substances Act, S.C., 1996, c. 19) ("Benzodiazepines and Other Targeted Substances Regulations"); and
- Monitored Drugs (as defined under the *Narcotic Safety and Awareness Act*, S.O. 2010, c. 22 as noted in Schedule "D").

Pursuant to my undertaking to the College, I hereby request that the Minister responsible for Health Canada issue a Notice advising the following persons or institutions of my prescribing restriction:

- all licensed dealers, as defined in section 2(1) of the *Narcotic Control Regulations*;
- all licensed producers, as defined in section 2(1) of the *Narcotic Control Regulations*;
- all pharmacies in the province of Ontario;
- all pharmacies in any adjacent province in which a prescription or order from me may be filled;
- the College of Physicians and Surgeons of Ontario; and
- any interested provincial professional licensing authority in another province that has made a request to the federal Minister of Health.

I understand that the Notice is issued pursuant to: section 58 of the *Narcotic Control Regulations*; section G.04.004 of the *Food and Drug Regulations*; and section 79 of *Benzodiazepines and Other Targeted Substances Regulations*.

I also understand that this notification will be effective for at least one year from the time that the Director issues the notice, and that the notice will remain in effect until the Minister issues a notice of retraction.

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DATE

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**DR. DARRYL JORDAN GEBIEN**