

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Citation: *College of Physicians and Surgeons of Ontario v. Hassell*, 2022 ONPSDT 46

Date: December 15, 2022

Tribunal File No.: 22-007

BETWEEN:

College of Physicians and Surgeons of Ontario

- and -

Dr. Christopher Hilton Hassell

FINDING AND PENALTY REASONS

Heard: November 15, 2022, by videoconference

Panel:

Ms. Sherry Liang (chair)

Mr. Jose Cordeiro

Dr. Deborah Robertson

Dr. James Watters

Ms. Shannon Weber

Appearances:

Ms. Sayran Sulevani, for the College

Ms. Keary Grace and Ms. Crystal Gillis, for Dr. Hassell

RESTRICTION ON PUBLICATION

The Tribunal ordered, under ss. 45-47 of the Health Professions Procedural Code, that no one may publish or broadcast the names or any information that would identify patients referred to during the Tribunal hearing or in any documents filed with the Tribunal. There may be significant fines for breaching this order.

INTRODUCTION

- [1] The College's Inquiries, Complaints and Reports Committee (ICRC) referred allegations Dr. Hassell committed misconduct to the Tribunal.
- [2] At the hearing, Dr. Hassell and the College provided a Statement of Uncontested Facts and Plea of No Contest. We find that the member committed professional misconduct as alleged in the Notice of Hearing, by failing to maintain the standard of practice of the profession, engaging in disgraceful, dishonourable or unprofessional conduct, contravening a term, condition or limitation on his certificate of registration and failing to respond to written inquiries from the College. We also find he is incompetent as defined by subsection 52(1) of the Health Professions Procedural Code which is Schedule 2 to the *Regulated Health Professions Act, 1991*, SO 1991, c. 18 (Code). The Tribunal orders the member to be reprimanded and to pay costs to the College in the amount of \$6,000.
- [3] These are the reasons for our findings.

PROFESSIONAL MISCONDUCT

- [4] In September 2021, the Registrar appointed investigators to investigate Dr. Hassell's care and conduct in his family medicine practice after receiving multiple reports that he was providing medical exemptions for COVID-19 vaccinations for a fee. As part of the investigation, the College retained an assessor to review 275 medical charts for patients Dr. Hassell saw on six dates between August 7 and September 18, 2021. The assessor found that Dr. Hassell failed to meet the standard of practice in 273 of 275 charts reviewed with respect to off-label prescribing of ivermectin for the prevention and/or treatment of COVID-19 infection, COVID-19 mask exemptions and COVID-19 vaccine exemptions.

Off-label prescribing of ivermectin to prevent or treat COVID-19 infection

- [5] The deficiencies the assessor noted included a failure to include copies of prescriptions in 97.8% of charts where the member gave a prescription for ivermectin. Further, none of these patients' charts documented other medication the patient was taking. Some charts included a preprinted stamp with weight-based dosing but the member did not record the patients' weights in 95% of the charts.

- [6] The assessor concluded that the member's approach to obtaining and documenting consent for the off-label prescribing of ivermectin demonstrated a lack of knowledge and/or skill of the expectations for such consent. His practice of prescribing ivermectin without adequate medication history or follow-up plans could be expected to cause harm to some patients who may take this medication.

Mask exemptions

- [7] The member provided a mask exemption to seven patients but none of those patients' charts included adequate documentation to establish the existence of the medical condition cited as the basis for the exemption.

Vaccine exemptions

- [8] The member provided vaccine exemptions to 168 patients, attesting that the COVID-19 vaccine would expose them to "unacceptable medical risk." However, none of these patients' charts included adequate documentation to identify a medical condition and associated risks from vaccination against COVID-19 that would be the basis for his statement of "unacceptable risk." None of the exemptions the assessor reviewed met established criteria for COVID-19 vaccine exemption.
- [9] The assessor also concluded that the member's failure to offer treatment or any assistance, beyond a vaccine exemption, to dozens of patients to whom he attributed a diagnosis of depression/anxiety would, if these patients actually had those conditions, be expected to cause harm to those individuals.

Failure to respond to the College, cooperate with the investigation and comply with the interim order

- [10] On November 5, 2021, the ICRC made an interim order without notice under s. 25.4(7) of the Code (the restriction order), restricting the member from providing medical exemptions from requirements for COVID-19 vaccines, masks and testing, and from prescribing ivermectin. Terms of the restriction order included requiring the member to post a sign about the restriction and, if the appointment was by telephone, to read the sign to the patient at the outset of an encounter. The member was also required to notify the College of all practice locations within five days of the restriction order, provide signed consent for the Ontario Health

Insurance Plan (OHIP) to share information with the College and maintain and provide to the College a log of all patient encounters.

[11] Following the restriction order, the College asked the member on multiple occasions to provide his practice locations and signed OHIP consent. His then-counsel sent the College a letter in December, stating that the member did not have a practice location at that time. The College then became aware that the member had been providing virtual services through a website, which he failed to disclose to the College. On January 27, 2022, the ICRC made an interim order without notice under s. 25.4(7) of the Code, suspending the member's certificate of registration.

[12] As part of its investigation, the College retained investigators to make covert medical appointments, indicating that they were seeking care for COVID-19 related issues. During these telephone appointments, the member made statements about COVID-19, vaccinations and ivermectin such as:

- He had "pretty serious concerns about safety" of COVID-19 vaccines.
- It is clear "immunizations represent much more of a risk than the actual illness itself."
- Vaccines cause an increased risk of microvascular blood clots in all of the body's essential organs.
- It is "pretty likely there is actual DNA damage that's going to be going on in terms of important tissues like brain and reproductive organs."
- The immune system becomes depressed and the risk of further infections is increased.
- As a preventative, "it's not harmful to [take ivermectin once a week] if you find a source of it and you want to go ahead and do that that's fine."
- Immunization would not protect the patient against COVID-19.
- Supplements would make her body "happier" and more resistant to "all sorts of infections."
- A product called "Ultra MFP Forte" "stops the infection dead in its tracks."

[13] In these telephone appointments, he also did not disclose the restrictions imposed on his certificate of registration.

- [14] Despite six requests, the member did not provide verbatim transcriptions of his encounter notes.

Offering services outside of Ontario without registration

- [15] The College's Telemedicine Policy requires that physicians offering patient care in another jurisdiction through telemedicine comply with the licensing requirements of that jurisdiction. The member saw patients outside Ontario through a website and did not at any relevant time hold registration in any other jurisdiction.

False and misleading statements regarding COVID-19

- [16] The member was associated with a number of websites on which information regarding COVID-19 and the global pandemic was posted. For example, on his own blog, he posted false and/or misleading statements related to COVID-19 tests, immunization and ivermectin. In addition, he circulated a theory about the pandemic, relating it to a "global plan to produce more illness, reduce world population and manage (control) social behaviour and to consolidate power to a select few."

FINDING ON ALLEGATION OF PROFESSIONAL MISCONDUCT

- [17] The member did not contest the facts above and that, based on these facts, he engaged in the categories of professional misconduct set out in the Notice of Hearing. We find on the evidence before us that his clinical care fell below the standard of practice of the profession. The deficiencies in the member's practice were multiple and serious and included failures to keep copies of prescriptions, to record patients' weight when ostensibly using weight-based dosing and to document other medications taken by patients. The last failure of documentation is related to the prescribing of ivermectin without adequate medication history or follow-up plans, exposing those patients to risk of harm. The assessor concluded that the member's record-keeping was so skeletal and, where more detailed, largely illegible, that it was impossible to be sure that his practice met the standard of care for prescribing drugs.
- [18] We find that the member's actions were disgraceful, dishonourable and unprofessional. He provided mask exemptions and vaccine exemptions without adequate medical justification. His provision of vaccine exemptions without any

apparent consideration of evidence demonstrated, as the assessor noted, that his actions were based on personal choice rather than medical decision-making.

- [19] The member's groundless provision of mask and vaccine exemptions exposed his patients and others in the community to risk of harm, by facilitating COVID-19 transmission. His propagation of misinformation about COVID-19 vaccines and treatments for COVID-19 and his circulation of conspiracy theories about the pandemic are deplorable and unprofessional. As the Tribunal stated in *College of Physicians and Surgeons of Ontario v. Matheson*, 2022 ONPSDT 27, involving similar conduct:

Patients and the public look to what physicians do and say during this pandemic. It is unprecedented in most of our lifetimes, and people may feel uncertain about what advice to take. When they see a physician ignoring and contradicting public health directives, it has a particular impact. Dr. Matheson wilfully spread misinformation about COVID-19. He should have been a role model, and he was not. (para. 14)

- [20] The member's failures to respond to the College's written inquiries or comply with the restriction order also amount to professional misconduct, as specified in subsections 1(1)30 and 1(1)1 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, SO 1991, c. 30. Every member of the profession is obliged to cooperate with the College in its investigations and to respond appropriately and within a reasonable time to College inquiries when requested to do so. As the Tribunal has stated, this is part of the responsibility of belonging to an independent, self-regulating body. The credibility of the medical profession, and the College as its regulator, depends on the College being able to investigate complaints or other issue of potential concern and to take appropriate action in a timely way (see *College of Physicians and Surgeons of Ontario v. Hanmiah*, 2022 ONPDST 9 at para. 11). Particularly troubling was the member's assertion that he had no practice location when he was, in fact, offering telemedicine services to patients in and outside of Ontario. This misconduct was compounded by the failure to ensure that he was licensed to provide care to patients from other provinces.

FINDING ON ALLEGATION OF INCOMPETENCE

- [21] Incompetence under the Code is defined in s. 52(1):

A panel shall find a member to be incompetent if the member's professional care of a patient displayed a lack of knowledge, skill or judgment of a nature or to an extent that demonstrates that the member is unfit to continue to practise or that the member's practice should be restricted.

[22] The member did not contest that he is incompetent within the meaning of s. 52(1). We are satisfied that the evidence before us demonstrates he is incompetent. His professional care of patients displayed a lack of knowledge, skill or judgment. The deficiencies were of a nature that make it clear he is either unfit to continue to practise or that his practice should be restricted.

[23] Many of the same facts that lead us to our finding of professional misconduct also support our finding of incompetence. As the assessor described, the member's approach to obtaining and documenting consent for off-label prescribing of ivermectin for COVID-19 demonstrates a lack of knowledge and/or skill in discussing and obtaining consent for this off-label prescription.

[24] The member's approach to vaccine exemptions demonstrates substantial deficits in professional judgment. None of the exemptions the assessor reviewed met the established criteria for COVID-19 vaccine exemptions. Because of the lack of any information to support the exemptions, the assessor found it impossible to determine whether the member was unaware of the criteria (thus displaying a lack of knowledge) or was aware of the criteria and chose to ignore them (displaying a lack of judgment). The assessor concluded that the member provided vaccine exemptions as a matter of personal choice rather than a medical decision, thus demonstrating substantial deficits in professional judgment. We agree.

PENALTY

[25] Before the hearing, the member filed an Undertaking, Acknowledgement and Consent, in which he resigned from the College effective on the hearing date. He also undertook not to apply or re-apply for registration as a physician to practise medicine in Ontario or any other jurisdiction. At the hearing, the parties made a joint submission on penalty, agreeing that the appropriate penalty is a reprimand. They also agree that the member should pay the College \$6,000 in costs.

[26] Because the parties agree, the question for us is whether the proposed penalty would bring the administration of justice into disrepute. A joint submission on

penalty will be rejected only where it causes “reasonable and informed persons, aware of all of the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe the proper functioning of the justice system” has broken down. See *R. v. Anthony-Cook*, 2016 SCC 43 at para. 34 and *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303 at para. 9.

[27] It is not our role on a joint submission to consider whether we agree with the proposed penalty or whether it is a penalty that we would order following a contested hearing and a finding of misconduct. The question is not whether the proposed penalty is the most appropriate fit, but rather, whether it is contrary to the public interest in a way that would bring the administration of justice into disrepute: *College of Physicians and Surgeons of Ontario v. Gutman*, 2021 ONPSDT 50 at para. 15.

[28] We are satisfied that the proposed penalty is not contrary to the public interest. The primary goal of a penalty order is the protection of the public: *College of Physicians and Surgeons of Ontario v. Fagbemigun*, 2022 ONPSDT 22 at para. 7. A public reprimand, together with the member’s undertaking, achieves this goal as he will no longer be practising medicine. It demonstrates the College’s ability to regulate the practice of medicine and govern physicians in the public interest. It reminds other members of the medical profession of their obligation to act on evidence-based medical decisions and not personal choice, and to uphold public health measures during a pandemic instead of undermining them.

[29] The penalty also reminds other members of the profession of their obligation to comply with orders and communications from the College, and that disregard of those will not be tolerated.

ORDER

[30] For the above reasons, we ordered:

- a. Dr. Hassell to attend before the panel to be reprimanded;
- b. Dr. Hassell to pay costs to the College in the amount of \$6,000 by December 15, 2022.

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Tribunal File No.: 22-007

BETWEEN:

College of Physicians and Surgeons of Ontario

- and -

Dr. Christopher Hilton Hassell

The Tribunal delivered the following Reprimand
by videoconference on Tuesday, November 15, 2022.

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

Dr. Hassell, we are deeply disturbed by the actions that have led to the findings of professional misconduct and incompetence made against you today. You failed to meet the standard of practice in caring for your patients, you engaged in disgraceful, dishonourable or unprofessional behaviour, and you failed to cooperate with the College.

Your assessment and follow-up of the patients you prescribed ivermectin to were clearly inadequate to do so safely. You failed, for every patient to whom you gave a vaccine exemption, to document a medical condition that might support your conclusion of unacceptable risk. Further, you offered no treatment or other assistance for anxiety and depression to the many patients you diagnosed with these conditions. For none of the patients you provided with a mask exemption did you adequately document a medical condition that would be the basis for such an exemption. In these circumstances, your management exposed your patients, their families, and their communities to the risk of significant harm.

We are deeply troubled as well by the false and misleading statements you made in public forums about COVID-19. The COVID-19 pandemic is unprecedented in our lifetimes. Our patients and the public have often been uncertain about what advice to follow and have looked to physicians, expecting that we will use our knowledge and authority in accordance with the highest professional standards. However, by contradicting widely accepted, science-based information about COVID-19, by promoting baseless global conspiracy theories, and by granting vaccine and mask exemptions without foundation, you failed to use your authority responsibly and undermined public health measures designed to limit the impact of COVID-19.

Lastly, you chose not to respond to the College's enquiries about the order limiting your practice. The College relies upon physicians to abide by its orders and to be forthright in their dealings with it in order that it can properly fulfill its primary mandate to protect the public. Your conduct demonstrated disrespect for the College's authority and undermined public confidence in the integrity of the profession and the College's ability to govern.

Dr. Hassell, your misconduct is very serious. It reflects varied and repeated acts and choices on your part. We can only conclude that the public interest is served by the resignation of your certificate and your undertaking not to re-enter the profession.