

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Citation: *College of Physicians and Surgeons of Ontario v. Verma*, 2022 ONPSDT 25

Date: July 6, 2022

Tribunal File No.: 21-020

BETWEEN:

College of Physicians and Surgeons of Ontario

- and -

Dr. Ashim Verma

FINDING AND PENALTY REASONS

Heard: June 2, 2022, by videoconference

Panel:

Ms. Jennifer Scott (chair)

Dr. Glen Bandiera

Ms. Julia Goyal

Dr. Joanne Nicholson

Mr. Rob Payne

Appearances:

Ms. Elisabeth Widner, for the College

Mr. Robin McKechney, for Dr. Verma

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 victims or witnesses 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] Dr. Verma was convicted of possession of child pornography. Under the Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991*, SO 1991, c. 18 (Code), this Tribunal must order revocation of his certificate of practice and a reprimand. We did so at the hearing. Although not required, Dr. Verma has given an undertaking not to apply for reinstatement in Ontario. These are the reasons for our decision.

Facts

[2] Dr. Verma is a cardiologist. He obtained his independent practice certificate from the College of Physicians and Surgeons of Ontario (College) in July 2017. He also held a certificate of registration with the College of Physicians and Surgeons of Alberta (CPSA).

[3] Dr. Verma was charged with possession of child pornography under s. 163.1(4) of the *Criminal Code*, RSC 1985, c. C-46. He was found guilty by the Ontario Court of Justice and sentenced to two years and six months in custody.

[4] The Inquiries, Complaints and Reports Committee directed the Registrar to suspend Dr. Verma's certificate of registration.

[5] The College referred allegations of misconduct against Dr. Verma to the Tribunal. The College alleged Dr. Verma had engaged in disgraceful, dishonourable or unprofessional conduct, conduct that is unbecoming a physician and had been found guilty of an offence that is relevant to his suitability to practise under s. 51(1)(a) of the Code.

[6] In a hearing before the CPSA, Dr. Verma admitted the facts that are before the Tribunal and agreed to the cancellation (revocation) of his certificate of registration with the CPSA.

[7] Dr. Verma signed an undertaking to never apply for reinstatement as a physician in Ontario.

[8] The parties provided an Agreed Statement of Facts on Liability and Penalty (ASF) at the hearing before the Tribunal. Dr. Verma admitted that he engaged in

disgraceful, dishonourable or unprofessional conduct, conduct unbecoming a physician and had been found guilty of an offence that is relevant to his suitability to practise under s. 51(1)(a) of the Code.

- [9] Dr. Verma and the College jointly submitted we should impose the mandatory penalty of a reprimand and revocation of Dr. Verma's certification of registration. The parties agreed that we should order Dr. Verma to pay costs of the hearing to the College of \$6,000. We accepted the joint submission on penalty and costs at the hearing.

Child Pornography

- [10] Dr. Verma has been found guilty of possession of child pornography. The facts underlying this finding are set out in the transcript of the criminal proceeding attached to the ASF. Dr. Verma admits those facts. More specifically, Dr. Verma admits that at the time of his arrest, he was in possession of 2,034 images of child pornography and 157 videos of child pornography, depicting both boys and girls, from infancy to approximately eight years of age, engaging in various sexual activity and showing their sexual organs.

- [11] Three videos in the possession of Dr. Verma are described in the transcript of the criminal proceeding. We are providing a brief description of the videos, which is disturbing, to enable the public to understand the seriousness of the crime and its effect on children. The videos show sexual activities by adult men, including fellatio, vaginal and attempted anal intercourse, with girls between the ages of five and seven. The images as described in the transcript are graphic and depict horrific child abuse.

Professional Misconduct

- [12] Under s. 51(1)(a) of the Code, the Tribunal shall find a member has committed an act of professional misconduct if the member has been found guilty of an offence that is relevant to the member's suitability to practise.
- [13] Dr. Verma admits that his criminal conviction for possession of child pornography is an offence that is relevant to his suitability to practise. He also admits that his possession of child pornography constitutes disgraceful, dishonourable or unprofessional conduct and conduct that is unbecoming a physician.

Finding

[14] We find Dr. Verma has committed an act of professional misconduct in that he has been found guilty of an offence that is relevant to his suitability to practise under s. 51(1)(a) of the Code and has engaged in conduct that is disgraceful, dishonourable or unprofessional and conduct that is unbecoming a physician.

Penalty

[15] The proposed penalty is a reprimand and revocation of Dr. Verma's certificate of registration.

[16] Section 51(5.2)(a) of the Code provides that the Tribunal shall reprimand the member and revoke the member's certificate of registration if the member has been found guilty of professional misconduct under s. 51(1)(a) of the Code and the offence is prescribed by regulation. Section 163.1 of the *Criminal Code* is a prescribed offence in the Code (see Regulation 262/18, made under the *Regulated Health Professions Act*).

[17] The requirements of s. 51(5.2)(a) of the Code are met in this case. Dr. Verma has been found guilty of an offence that is relevant to his suitability to practise and the offence is prescribed by regulation. If these requirements are met, the Tribunal must apply the mandatory penalty. It must reprimand Dr. Verma and revoke his certificate of registration.

[18] To understand why the legislature has imposed a mandatory penalty, it is important to recognize the harm caused by child pornography. The College relies on the Supreme Court of Canada's decision in *R. v. Friesen*, 2020 SCC 9 for its articulation of harm. The Court, referring to its previous decision in *R. v. Sharpe*, 2001 SCC 2, states children are traumatized and violated by the production of child pornography and experience a level of harm that may stay with them for their entire lives. It reaffirms that sexual violence against children is "wrongful because it invades their personal autonomy, violates their bodily and sexual integrity, and gravely wounds their dignity." (*Friesen* at para. 51)

[19] There is a link between the possession of child pornography and the victimization and abuse of children. As the demand for child pornography rises so too does the

exploitation and abuse of children. Possessing child pornography encourages and sustains the child pornography industry. The court in *Sharpe* explained it this way:

Children are used and abused in the making of much of the child pornography caught by the law. Production of child pornography is fueled by the market for it, and the market in turn is fueled by those who seek to possess it. Criminalizing possession may reduce the market for child pornography and the abuse of children it often involves. The link between the production of child pornography and harm to children is very strong. The abuse is broad in extent and devastating in impact. The child is traumatized by being used as a sexual object in the course of making the pornography. The child may be sexually abused and degraded. The trauma and violation of dignity may stay with the child as long as he or she lives. Not infrequently, it initiates a downward spiral into the sex trade. Even when it does not, the child must live in the years that follow with the knowledge that the degrading photo or film may still exist, and may at any moment be being watched and enjoyed by someone.
(para. 92)

[20] The mandatory penalty of reprimand and revocation reflects the serious nature of the misconduct. Children are abused in the making of child pornography and possession of child pornography is itself child abuse because children are revictimized every time their image is shown. The three videos described in the criminal transcript are clear examples of this.

[21] Physicians occupy a place of trust. When Dr. Verma became a physician, he, as all physicians do, agreed to “first, do no harm.” Dr. Verma breached this agreement in a fundamental way when he participated in the exploitation and abuse of the most vulnerable members of our society.

[22] The mandatory penalty of reprimand and revocation reflects the serious nature of the misconduct and provides the necessary public protection. It sends a strong message that members who harm children through the possession of child pornography cannot continue to have the privilege to practise medicine in Ontario.

Order

[23] At the conclusion of the hearing, we ordered and directed:

- a. Dr. Verma attend before the panel to be reprimanded.

b. The Registrar revoke Dr. Verma's certificate of registration, effective immediately at 12:01 a.m.

c. Dr. Verma pay costs to the College in the amount of \$6,000 by July 4, 2022.

[24] Dr. Verma waived his right of appeal at the hearing and we delivered the reprimand.

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BETWEEN:

College of Physicians and Surgeons of Ontario

- and -

Dr. Ashim Verma

The Tribunal delivered the following Reprimand
by videoconference on Thursday, June 2, 2022.

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

Ashim Verma,

When you obtained your credentials as a physician, you agreed, as all physicians do, to “first do no harm.” This is an expectation not only in your professional practice, but in your personal life as well. By using child pornography, you have participated in the exploitation and abuse of the most vulnerable members of our society.

You have broken the law, been incarcerated and you are now a registered sex offender. The police found not one image, but thousands, of children being violated in your possession. Your explanation to the criminal court that this was accidental, or due to mere curiosity, showed poor insight and lack of remorse for the children that were harmed in the production of the pornography that you viewed.

Your certificate of registration is now revoked as a result of your reprehensible actions.

You are now dismissed.