

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Maranda this is notice that the Discipline Committee ordered that no person shall publish or broadcast the name or any information that could disclose the identity of the complainant referred to in this matter 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... 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. Maranda,
2017 ONCPSD 33**

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

IN THE MATTER OF a Hearing directed by
the Inquiries, Complaints and Reports Committee of the College of Physicians and Surgeons of
Ontario pursuant to Section 26(1) of the **Health Professions Procedural Code**
being Schedule 2 of the *Regulated Health Professions Act, 1991*,
S.O. 1991, c. 18, as amended.

B E T W E E N:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. ROBERT CLAUDE MARANDA

PANEL MEMBERS: **DR. M. DAVIE (Chair)**
 MR. S. BERI
 DR. D. KRAFTCHECK
 MAJOR A.H. KHALIFA
 DR. M. GABEL

COUNSEL FOR THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO:

MS ELIZABETH WIDNER

COUNSEL FOR DR. MARANDA:

MR. PAUL MILLICAN

INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:

MR. DAVID ROSENBAUM

Hearing Date: June 15, 2017
Decision Date: June 15, 2017
Release of Written Reasons: July 25, 2017

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 June 15, 2017. At the conclusion of the hearing, the Committee released a written order stating its finding that the member committed an act of professional misconduct and setting out its penalty and costs order with written reasons to follow.

THE ALLEGATIONS

The Notice of Hearing alleged that Dr. Robert Claude Maranda 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 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
2. under paragraph 1(1)34 of O. Reg. 856/93 in that he engaged in conduct unbecoming a physician.

RESPONSE TO THE ALLEGATIONS

Dr. Maranda admitted the first allegation in the Notice of Hearing that he has engaged in conduct or an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional. Counsel for the College withdrew the second allegation in the Notice of Hearing that he engaged in conduct unbecoming a physician.

THE FACTS

The following facts were set out in the Agreed Statement of Facts which was filed as an exhibit:

PART I – FACTS

Background

1. Dr. Robert Claude Maranda (“Dr. Maranda”) is a 42 year old cardiologist practising medicine in Ottawa, Ontario. He received his certificate of registration authorizing independent practice in Ontario in 2005 and his specialist qualification in cardiology in 2007.
2. In the relevant years, Dr. Maranda held privileges at The Ottawa Hospital. In addition to his medical practice, Dr. Maranda was an assistant at a University Faculty of Medicine. In particular, he was an “ePortfolio” group leader.
3. Ms. A was one of seven medical students in Dr. Maranda’s ePortfolio group. Dr. Maranda’s role as group leader involved meeting with the group of students approximately twice a year to discuss issues associated with the process of completing medical school. Dr. Maranda’s role also included assisting medical students in completing an ePortfolio. Attached at tab A [to the Agreed Statement of Facts] is a document titled, “What is the ePortfolio”, that sets out the ePortfolio process as it existed at the relevant time. In his role as group leader, Dr. Maranda communicated with individual students in the group by email as required.
4. Ms. A was in her final semester of her last (fourth) year of medical [school]. Each student in the group was to submit a draft final ePortfolio posting by a specific date. The final posting was due two weeks later. The ePortfolio was to be graded by Dr. Maranda on a pass-fail basis. A student would receive a “pass” so long as the student submitted the required postings. Dr. Maranda was to submit the pass-fail grade after the students’ final posting.
5. One day before the date to submit a draft final ePortfolio posting, Ms. A contacted Dr. Maranda to ask for an extension of time for submitting her draft ePortfolio posting. Ms. A explained to Dr. Maranda that she was experiencing personal difficulties following the

sudden end of a long term relationship that occurred while she was out of town interviewing for residency placements. Dr. Maranda granted the extension.

6. Later, Dr. Maranda offered to meet with Ms. A to offer supportive advice.
7. Two weeks later, Dr. Maranda and Ms. A went for drinks and food at a pub. They discussed Ms. A's personal issues as well as her progress in receiving a residency placement.
8. Approximately one week later, Ms. A texted Dr. Maranda to thank him.
9. As of this point, their communications became more frequent and personal.
10. After exchanging texts about a further meeting, Dr. Maranda and Ms. A arranged to meet again at a pub on a date in the following month.
11. Dr. Maranda and Ms. A met at a pub, where they ate and drank. They returned to Ms. A's apartment where a sexual encounter took place between them.
12. The next day, Dr. Maranda and Ms. A texted back and forth discussing the events of the preceding evening. After several days, Ms. A stopped communicating with Dr. Maranda, who continued to send her messages for a few days.
13. Approximately a week and a half following their sexual encounter, Ms. A submitted a complaint about Dr. Maranda to the University. Dr. Maranda was advised that, pending review of the complaint by the University's Professionalism Investigation Committee, investigation, Dr. Maranda was to have no contact with learners.
14. Dr. Maranda took a leave of absence from The Ottawa Hospital in April 2015.
15. The University's Professionalism Investigation Committee concluded that Dr. Maranda engaged in a personal relationship with a student and that the relationship constituted a breach in professionalism.
16. Although the Professionalism Investigation Committee recommended a supervised reintegration into the learning environment over the course of three years, Dr. Maranda's academic appointment at the University was terminated by the Dean of the Faculty of Medicine on September 15, 2015.
17. Dr. Maranda resigned his privileges at The Ottawa Hospital on September 25, 2015.

College Investigation

18. The College investigation began on April 18, 2015, following receipt of information from the Chief of Staff at the Ottawa Hospital, that Dr. Maranda would be commencing a leave of absence following a complaint from Ms. A concerning Dr. Maranda.

Disgraceful, dishonourable or unprofessional conduct

19. A relationship between a clinical instructor and a learner is unprofessional because of the power differential in the relationship between a clinician and a student and the fact that such relationships could lead to a disruption in education and learning.

PART II – ADMISSION

Dr. Maranda admits the facts contained in paragraphs 1 to 19 above and admits that, as an instructor who entered into a relationship with a learner, he 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, contrary to paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act*, 1991.

FINDING

The Committee accepted as correct all of the facts set out in the Agreed Statement of Facts and Admissions. Having regard to these facts, the Committee accepted Dr. Maranda's admission and found that he committed an act of professional misconduct in that he has engaged in conduct or an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

PENALTY AND REASONS FOR PENALTY

Agreed Statement of Facts on Penalty

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

1. Dr. Maranda has no prior discipline history with the College.
2. As a result of the professional misconduct outlined in the Agreed Statement of Facts, filed in this hearing, Dr. Maranda's academic appointment with the University was terminated in September 2015 and he resigned his privileges with The Ottawa Hospital on September 25, 2015.
3. Since the time of the events described in the Agreed Statement of Facts, Dr. Maranda has engaged in counselling to address the misconduct at issue and has provided the College with favourable reports from his treating psychologist. Attached at tab A [to the Agreed Statement of Facts on Penalty] is a report dated February 23, 2017, from Clinical Psychologist Dr. Loretta Patterson.
4. In February 2016, Dr. Maranda successfully completed a one-on-one course in medical ethics with Dr. Jeffrey Blackmer, Vice-President, Medical Professionalism, Canadian Medical Association, and has provided proof of successful completion to the College. Attached at tab B [to the Agreed Statement of Facts on Penalty] is a letter dated February 25, 2016, from Dr. Blackmer.

Agreement as to Penalty

5. The parties agree to the above facts and agree that the appropriate penalty in this matter is as set out in the draft Order filed in this hearing.

Submissions on Penalty

Counsel for the College and counsel for Dr. Maranda made a joint submission as to an appropriate penalty and costs order. The proposed penalty includes an order that Dr. Maranda

successfully complete the next available course in Understanding Boundaries at Western University within six months, that he be reprimanded, and that he pay costs in the amount of \$5,500.00.

Legal Principles

The Committee was aware that a joint submission should be accepted, unless the proposed penalty would bring the administration of justice into disrepute, or would otherwise be contrary to the public interest. After careful consideration, the Committee accepted as appropriate the jointly proposed penalty.

The principles guiding the imposition of penalty are well-established. The protection of the public is the foremost consideration. Other principles are: maintenance of public confidence in the integrity of the profession and in the College's ability to govern the profession effectively in the public interest, denunciation of wrongful conduct, specific deterrence as it applies to the member, general deterrence in relation to the membership as a whole and, where appropriate, the member's potential for remediation.

After a review of the jointly proposed penalty, the Committee accepted the proposed penalty as an appropriate sanction in this matter. The Committee considered mitigating and aggravating factors in arriving at this decision. The reasons for the Committee's decision are set out below.

Aggravating Factors

The most prominent aggravating factors are that Dr. Maranda was in a position of trust and authority with the complainant, a medical student. As a teacher to future physicians, he was expected to not only teach, but to set an example of professionalism. He could affect the complainant's medical career with his authority to grade her as passing or failing.

Beyond this inherent power imbalance, there was the issue of the complainant's trust in informing Dr. Maranda of her emotional state and the reasons for it. It was disgraceful that

knowing her emotional fragility, Dr. Maranda was not supportive, but took advantage of the complainant's emotional state.

The boundaries between faculty and students are expected to be firm for the benefit of all concerned. The faculty models how physicians should behave in their future relationships with vulnerable patients, as well as medical and support staff. Dr. Maranda failed to do this.

He has paid a price professionally by having been discharged from his faculty position and by resigning his privileges at a teaching hospital.

Mitigating Factors

The Committee also considered the mitigating factors. Dr. Maranda admitted to his misconduct, which saved the complainant from having to testify in a public hearing. He registered for and is taking the boundary course at Western University. As well, he has successfully completed ethics training with Dr. Jeffrey Blackmer, the Vice-president of the Medical Professionalism at Canadian Medical Association. In addition, Dr. Maranda has engaged in counselling. The Committee considered favourable reports of his progress that were submitted by his treating psychologist.

Conclusion

The Committee accepted the proposed penalty. The Committee noted that Dr. Maranda is continuing his personal rehabilitation. The Committee is satisfied that the proposed penalty order protects the public and should maintain public confidence in the College's ability to govern the profession effectively in the public interest.

This case should remind physicians serving as faculty of their responsibility to act as positive role models. It is of fundamental importance that physicians on faculty exercise proper boundaries and show respect to those they are entrusted to teach. Transmitting the facts of this case to the profession should serve as a general deterrent to the profession.

A public reprimand should emphasize to Dr. Maranda the profession's and the public's disapproval of this kind of behavior.

The Committee considers this an appropriate case in which to order Dr. Maranda to pay costs of the hearing to the College in the amount of \$5,500.00.

ORDER

The Committee stated its findings of professional misconduct in paragraph 1 of its written order of June 15, 2017. In that order, the Committee ordered and directed on the matter of penalty and costs that:

1. The Registrar impose the following terms, conditions and limitations on Dr. Maranda's Certificate of Registration:
 - (a) At his own expense, Dr. Maranda shall successfully complete the next available course in Understanding Boundaries at Western University within 6 months of the date of this Order.
2. Dr. Maranda appear before the panel to be reprimanded.
3. Dr. Maranda pay costs to the College for a one day hearing in the amount of \$5,500.00 within 30 days of the date of this Order.

At the conclusion of the hearing, Dr. Maranda waived his right to an appeal under subsection 70(1) of the Code and the Committee administered the public reprimand.

TEXT of PUBLIC REPRIMAND
Delivered June 15, 2017
in the case of the
COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO
and
DR. ROBERT CLAUDE MARANDA

Dr. Maranda, the Committee is very disappointed to hear of your misconduct with a medical student, who was clearly vulnerable and dependent upon you and your position as her ePortfolio leader, with the power to affect her career through your pass/fail grading of her performance.

The public expects our physicians and surgeons of Ontario to uphold a high standard of professionalism at all times, especially in our roles of educating and mentoring our future doctors. We trust that your actions of seeking counselling and completing the ethics course and now the ordered boundary course, that you have insight into the consequences of your folly.

And we expect that you will continue in your many years of practice ahead without further blemish, and that you will not appear before the Panel again.

This is not an official transcript