

**Indexed as: Ontario (College of Physicians and Surgeons of Ontario) v.
Romanescu, 2015 ONCPSD 26**

**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. CRAITA ARINA ROMANESCU

PANEL MEMBERS:

DR. P. POLDRE (CHAIR)
J. LANGS
DR. S. YOUNG
DR. E. ATTIA (Ph.D.)
DR. W. KING

Hearing Date:	June 16, 2015
Decision Date:	June 16, 2015
Release of Written Reasons:	July 6, 2015

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 16, 2015. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty and costs order with written reasons to follow.

THE ALLEGATIONS

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

1. under paragraph 1(1)2 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”), in that she has failed to maintain the standard of practice of the profession; and
2. under paragraph 1(1)33 of O. Reg. 856/93, in that she 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.

RESPONSE TO THE ALLEGATIONS

Dr. Romanescu admitted the second allegation in the Notice of Hearing, that she 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. Her counsel stated that she did so on the basis that her conduct was unprofessional. Counsel for the College withdrew the first allegation in the Notice of Hearing.

THE FACTS

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

PART I – FACTS

Background

1. Dr. Romanescu is a 47-year-old physician with a specialization in family medicine. She graduated from the University of Medicine and Pharmacy in Romania in 1993 and has had an independent practice certificate in Ontario since 2007.

Background and Dr. Romanescu’s 2013 Leave of Absence

a) Background

2. In February of 2010, the College of Physicians and Surgeons of Ontario (the “College”) received a complaint from a patient who had been unable to obtain her records despite repeated requests when Dr. Romanescu closed her office for an indefinite period. Dr. Romanescu was cautioned by the College regarding the need to adhere to the College’s policy “Practice Management Considerations for Physicians Who Cease to Practice, Take an Extended Leave of Absence, or Close Their Practice Due to Relocation”. A copy of the May 2010 decision of the College’s Inquiries, Complaints and Reports Committee is attached at Tab A [to the Agreed Statement of Facts and Admission].

3. On September 4, 2011, Dr. Romanescu signed an undertaking with the College, in which she agreed to abide by the terms of the contract with the Physician Health Program (the “PHP”) she had entered on July 26, 2011, and to remain in the monitoring arrangement with the PHP for five years.

b) Dr. Romanescu’s 2013 Leave of Absence

4. In November of 2013, Dr. Romanescu experienced a recurrence of her health issues and on November 18, 2013, was advised by the PHP that she must take a leave of absence from her medical practice, for health reasons. She had retained an administrative person who was to check messages and respond to patient requests, but this relationship was terminated shortly after Dr. Romanescu’s leave of absence began and then there was

no one to staff the office. Thereafter, a sign was posted on the door of Dr. Romanescu's office (a copy of which is attached at Tab B [to the Agreed Statement of Facts and Admission]) and a voicemail message was left on the office's telephone system advising patients that the office was closed, but the voicemail message was only intermittently in place.

5. On December 6, 2013, Dr. Romanescu's lawyer contacted the College to advise that Dr. Romanescu had no administrative staff. At that time, Dr. Romanescu's lawyer proposed a solution to respond to patient record requests and review mail received at Dr. Romanescu's office, to which the College agreed. A copy of the letter from Dr. Romanescu's lawyer to the College dated December 6, 2013 is attached at Tab C [to the Agreed Statement of Facts and Admission]. A copy of the College's response dated December 11, 2013 is attached at Tab D [to the Agreed Statement of Facts and Admission].

6. Over the following months, Dr. Romanescu and her lawyer attended at her office on several occasions to process patient record requests and the delivery of test results and other mail to patients.

The Current Referral

7. This referral to the Discipline Committee relates to complaints received from numerous patients in relation to the sudden closure of Dr. Romanescu's office in November 2013, when Dr. Romanescu was forced to take a leave of absence from her medical practice, for health reasons.

a) Patient A

8. Patient A complained to the College in November 2013. Patient A advised the College that she and her husband were both patients of Dr. Romanescu and that her husband had appointments with her every three months. In October 2013, Dr. Romanescu's office called to reschedule his October appointment to a date in November. When he arrived for his appointment as scheduled, the door was locked and there was no

notice posted or phone call to notify him of any change. The day before Patient A had attempted to call Dr. Romanescu's office regarding their daughter's x-ray results, but there was no answer and the mailbox was full. She called again several days later and again there was no answer. On Patient A's last call to Dr. Romanescu's office the phone rang through to the cell phone of Mr. X (an administrative person hired by Dr. Romanescu to assist with her practice management), who said he was employed by Dr. Romanescu and he would pass on their message but could not assist any further.

b) Patient B

9. Patient B complained to the College on November 19, 2013 that he was a long-term patient of Dr. Romanescu's who received his pain medication from her. In October 2013, Patient B attended at Dr. Romanescu's office for a scheduled visit to receive a 6-week supply of his pain medication (instead of the usual 4-week supply) because he was leaving for a trip. Dr. Romanescu would not see him and told him to go to a walk-in clinic. He was told by Dr. Romanescu's assistant that the doctor was leaving for two weeks, and to book an appointment for November when she would be back. However, when Patient B arrived at the office in November there was a sign on the door advising that Dr. Romanescu would be away for an undetermined period of time. Patient B was left without a renewal of his medication from Dr. Romanescu and without his medical records to facilitate his ability to obtain his medication from another physician. In addition, Dr. Romanescu had filled out a disability tax credit form for Patient B. prior to her office closure, but Dr. Romanescu forwarded the government's subsequent request for additional information to Patient B following the closure of her office because she was unable to practise medicine at that time.

c) Patient C

10. Patient C's wife complained to the College about her husband's experience with Dr. Romanescu in December of 2013. In early November 2013, Patient C was told by the hospital to go to his family doctor to book an MRI, but when he tried to call Dr. Romanescu's office to book the MRI appointment, there was no answer. After repeatedly trying to reach the office and being unable to speak to anyone, he decided to look for a

new family doctor. In November, he was able to see the staff of a new doctor, who subsequently requested his medical records from Dr. Romanescu. Patient C and his wife had attended Dr. Romanescu's office in person, and Patient C's new doctor attempted to call the office and to fax a medical record request form, but they were unable to get through. Similarly, they sent a medical record request form by mail and had not heard back by the time of the complaint in December 2013.

d) Patient D

11. On December 6, 2013, Patient D contacted the College to say that Dr. Romanescu had closed her practice suddenly and without notice. Patient D advised the College that when she had called Dr. Romanescu's office she spoke to a "very unprofessional male" who informed her that Dr. Romanescu's office was closed but she could "somehow" get her medical record if she wanted it, but did not explain how she might do so.

e) Patient E

12. On December 11, 2013, Patient E complained to the College about Dr. Romanescu. In her complaint, Patient E explained that she has high blood pressure and needs to have a check-up and medication refill by her physician every few months. When she attempted to make an appointment with Dr. Romanescu for regular follow up, she received a recorded telephone message saying the mailbox was full. At the office, she found a notice on the door advising that Dr. Romanescu was away and the office was closed for the foreseeable future. She said she was having trouble finding another doctor in her area and was concerned that she did not have her records from Dr. Romanescu's office.

f) Patient F

13. On November 19, 2013, Patient F complained to the College that she had tried to call Dr. Romanescu's office earlier that day to make an appointment, but the answering machine said the office was closed until further notice. When she called the office again in December there was a message advising that if patients wanted medical records they should write to ask for them. She did so, but had not received the records or

communication from Dr. Romanescu as of January 24, 2014 and was uncertain about how she should proceed.

g) Patient G

14. On February 14, 2014, Patient G's daughter called the College because she was having trouble obtaining records from Dr. Romanescu, who was her father's (Patient G) physician. She wrote to Dr. Romanescu to ask for a copy of the records on February 14, 2014 and on March 27, 2014 contacted the College again because she had heard nothing from Dr. Romanescu following her request.

15. In May of 2014, Dr. Romanescu sent Patient G a colonoscopy report that her office had recently received by mail at no cost. In July of 2014, Patient G's daughter wrote to the College to advise that her father had recently been diagnosed with cancer by his new physician.

h) Patient H

16. On April 6, 2014, Patient H complained to the College that she had been unable to obtain her medical records from Dr. Romanescu. She explained that she tried to book an appointment with Dr. Romanescu only to find that the telephone had been disconnected. At the office, she found a sign on the door telling patients to write if they wanted their medical records. Patient H submitted requests to Dr. Romanescu's office for her records in January and February of 2014 and had not heard back from Dr. Romanescu at the time of her complaint to the College.

i) Patient I

17. On January 13, 2014, Patient I called the College to express concerns about Dr. Romanescu's office closure. She was upset that she was not notified of the closure because she has diabetes and requires regular visits to her doctor. She also said that at her last appointment, Dr. Romanescu was very rude, and refused to speak to her at 1:50 p.m., even though she was sitting at the desk, because the office did not formally open until 2:00 p.m.

j) Other Patient Concerns

18. In addition to the formal complaints, the College received numerous additional contacts from patients who shared similar experiences and expressed frustration that Dr. Romanescu had closed her office abruptly, without prior notice, and without having made prior arrangements to address patient requests for such things as obtaining their medical records, prescription renewals and test results should she be unable to work in the future.

k) Dr. Romanescu's Office Assistant

19. Mr. X was hired to work as a receptionist in Dr. Romanescu's office in the fall of 2013. He had no prior medical office experience. He worked for a brief period, but was let go after expressing frustration regarding Dr. Romanescu's office practices, including last-minute cancelling and rescheduling of patients.

20. Mr. X was re-hired on November 5, 2013 and was told Dr. Romanescu was going to be away until November 19, 2013. But on November 19, 2013, she did not return to work, and Mr. X called the College to say that Dr. Romanescu had been taking time off without notice and he was having difficulty contacting patients to reschedule their appointments. He advised the College that Dr. Romanescu may have closed her office indefinitely, but had given him no information about who to refer patients to. He also offered to have the office phone re-directed to his personal cell phone so he could help patients, but then found that he had an influx of patients calling him during his personal time.

21. On November 21, 2013, Mr. X called the College to advise that he had received an e-mail from Dr. Romanescu who told him she was taking a personal/health leave and that she was seeking another physician to cover her practice.

Medical Records Forwarded to Complainants and Other Patients

22. Dr. Romanescu provided the requested medical records to each of the complainants, as set out below:

- the medical records of Patient A and her husband were sent to them at no cost on January 15, 2014. Dr. Romanescu also sent Patient A's husband a disc containing an electronic copy of his prior medical records at no cost on May 6, 2014;
- Patient B's medical records were sent to him at no cost on January 10, 2014;
- Patient C's records were sent to his wife at no cost on January 14, 2014;
- Patient D's medical records were sent to her at no cost on May 7, 2014;
- Patient E's medical records were sent to her at no cost on January 30, 2014;
- Patient F's medical records were sent to her at no cost on February 18, 2014;
- Patient G's medical records were sent to him at no cost on April 11, 2014;
- Patient H's medical records were sent to her at no cost on April 11, 2014; and
- Patient I's medical records were sent to her at no cost on April 11, 2014.

23. Dr. Romanescu also provided a copy of her medical records requested by all other patients who requested them at no cost following the closure of her office in November 2013. In addition, Dr. Romanescu mailed out hundreds of test results, consultation notes and other medical records that she received in the mail following the closure of her office at no cost.

PART II – ADMISSION

24. Dr. Romanescu admits the facts set out in paragraphs 1 through 23 above.

25. Dr. Romanescu admits that the conduct described above constitutes professional misconduct in that while she was working, she failed to put in place appropriate measures to manage her practice in the event that she was unable to practise in the future. Dr. Romanescu admits she has engaged in professional misconduct in that she has engaged in an act or omission relevant to the practice 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*, S.O. 1991, c.30.

FINDING

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

PENALTY AND REASONS FOR PENALTY

Counsel for the College and counsel for the member made a joint submission as to an appropriate penalty and costs order.

The Committee is cognizant of the clear requirement of the law that where parties make a joint submission as to penalty, the Committee must accept the proposed penalty, unless to do so would be contrary to the public interest and would bring the administration of justice into disrepute. Additionally, in considering the appropriateness of a proposed penalty, the Committee must take into account the governing principles that underlie the imposition of penalties, the most important of which is that the penalty must protect the public. The penalty must denounce the misconduct, be proportionate to the misconduct, and maintain the public's confidence in the profession and its ability to self-regulate in the public interest. The Committee must also consider whether the proposed penalty serves to provide specific deterrence to the member and general deterrence to the profession at large. Where appropriate, a penalty should aim to provide rehabilitation for the member as well. In coming to its decision on penalty, the Committee should consider any aggravating factors as well as any mitigating factors.

The Committee agreed that the penalty proposed in the joint submission was appropriate and was in accordance with the above-stated principles.

Mitigating Factors

In considering the proposed penalty, the Committee was mindful of the seriousness of the finding, but also noted mitigating factors. Dr. Romanescu cooperated with the College in arriving at an Agreed Statement of Facts and Admission, which has spared numerous potential witnesses from having to attend to testify at a hearing. Dr. Romanescu also cooperated in the administrative steps required to provide many patients with their records within a few months of their requests, although this did not occur until after the referral to discipline. Another mitigating factor is that Dr. Romanescu has health issues, which are being dealt with, and she is complying with the Physician Health Program (PHP) and the undertaking with the College that she signed on September 4, 2011.

Aggravating Factors

The Committee considered it to be an aggravating factor that in May 2010 Dr. Romanescu had been cautioned by the Inquiries, Complaints and Reports Committee (ICRC) for similar conduct: failing to provide proper notice, and to have in place a plan to ensure provision of care for her patients, when she had to take a sudden leave of absence from her practice. Dr. Romanescu should have been well aware of each detail of the College's Policy Statement #2-07: "Practice Management Considerations for Physicians Who Cease to Practise, Take an Extended Leave of Absence or Close Their Practice Due to Relocation", the key portions of which were set out in the ICRC's May 2010 decision. Subsequently, the College received nine specific patient complaints and numerous additional contacts from patients. These patients and their families suffered stress, anxiety as well as genuine health risks as a result of Dr. Romanescu's inattention to the College's policy.

Appropriateness of the Penalty

The Committee was satisfied that the terms, conditions and limitations on Dr. Romanescu's certificate of registration that were proposed in the joint submission, would adequately protect the public. Of most importance, Dr. Romanescu will be able to practise only in a group setting acceptable to the College. This addresses directly Dr.

Romanescu's failure to make provision for her absence, which gave rise to the complaints against her, and should provide protection against future problems in the event that Dr. Romanescu again has to close her practice suddenly. The requirement that Dr. Romanescu undergo a practice assessment upon her return to practice (should she return after December 1, 2015 she would do so pursuant to the College's policy on "Re-Entering Practice") also assures public protection by ensuring that Dr. Romanescu's skills and practices are at an acceptable level. These significant terms to protect the public should maintain public confidence in the profession's ability to self-regulate.

The public reprimand provides specific deterrence to Dr. Romanescu as it affords the Committee an opportunity to clearly express its view of the misconduct to Dr. Romanescu. It also serves as a general deterrent to the profession in its denunciation of the misconduct in which Dr. Romanescu engaged.

The proposed one-month suspension is appropriate and a serious sanction that will also serve as a specific deterrent to Dr. Romanescu. It expresses the Committee's serious concern with the repeated nature of Dr. Romanescu's conduct, and has both reputational and financial impact on her. It also sends a message to the profession that such conduct will not be tolerated.

Previous Cases

The Committee was satisfied that the proposed penalty was in line with prior cases involving similar misconduct of a repeated nature:

- *Tamari* (2012) – four-week suspension, terms and conditions, reprimand and costs ordered where physician failed to respond to repeated requests from an insurance company for medical records needed to deal with an insurance claim; physician had previously been cautioned by the Complaints Committee for refusing to transfer information on a former patient and her family.
- *Riley* (2003) – reprimand, terms, conditions and limitations and costs ordered where physician failed to deliver records to six patients for between 9 and 30 months.

- *Faulkner* (2001) – reprimand, one month suspension, order for peer assessment and office inspection, and costs where physician failed to provide records and report to lawyer who needed them for insurance case and failed to respond to numerous inquiries from the College; physician had a prior disciplinary history.

Costs

It is within the Committee's discretion to award costs in an appropriate case. The Committee agreed that it is warranted in this case to award the College the costs of one day of hearing.

ORDER

Therefore, having stated the findings in paragraph 1 of its written order of June 16, 2015, on the matter of penalty and costs, the Committee ordered and directed that:

2. Dr. Romanescu appear before the panel to be reprimanded.
3. the Registrar suspend Dr. Romanescu's certificate of registration for a period of one (1) month commencing immediately.
4. the Registrar impose the following terms, conditions and limitations on Dr. Romanescu's certificate of registration:
 - a) Effective immediately, Dr. Romanescu shall only practise in a group setting acceptable to the College;
 - b) Dr. Romanescu shall provide notice to the College of the first day she returns to the practice of medicine;
 - c) If Dr. Romanescu returns to practice prior to December 1, 2015, she shall undergo a practice assessment, at the College's expense, within three (3) to six (6) months of her return to practice; and

- d) If Dr. Romanescu returns to practice on or after December 1, 2015 she will be required to abide by the re-entry to practice procedure outlined in the College policy “Re-entering Practice”.
5. Dr. Romanescu pay to the College costs in the amount of \$4,460 within 60 days of the date of this Order.

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

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B E T W E E N:

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- and -

DR. CRAITA ARINA ROMANESCU

PANEL MEMBERS:

DR. P. POLDRE (CHAIR)
J. LANGS
DR. S. YOUNG
DR. E. ATTIA (Ph.D.)
DR. W. KING

Hearing Date:	June 16, 2015
Decision Date:	June 16, 2015
Reprimand Date:	June 16, 2015
Release of Written Reasons:	July 6, 2015

TEXT of PUBLIC REPRIMAND
Delivered June 16, 2015
in the case of the
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO
and
DR. CRAITA ARINA ROMANESCU

Dr. Romanescu, while recognizing the challenges you are having with your health, the Committee is dismayed that you did not learn from the caution given to you by the College in 2010. The College policy regarding practice management during leaves of absence is explicit, and has been carefully crafted to protect the interests of your patients in particular, and the confidence of the public in our profession's ability to self-regulate.

By failing to establish a system of office administration during your absence, and to make arrangements for the ongoing care of your patients, you submitted numerous patients and their family members to significant anxiety and stress, as well as genuine health risks to your patients.

We expect that the suspension will send a strong message to you that your professional reputation has been tarnished. The Committee sincerely hopes that your future in our profession will benefit from the terms imposed by the penalty, and that you may be able to rebuild yourself as an honourable member of our profession. You may sit.