

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Citation: *College of Physicians and Surgeons of Ontario v. Turek*, 2024 ONPSDT 1

Date: January 19, 2024

Tribunal File No.: 22-018

BETWEEN:

College of Physicians and Surgeons of Ontario

College

- and -

Caroline Anne Turek

Registrant

FINDING AND PENALTY REASONS

Heard: December 15, 2023, by videoconference

Panel:

David A. Wright (Tribunal Chair, public)

Glen Bandiera (physician)

Joanne Nicholson (physician)

Rob Payne (public)

Linda Robbins (public)

Appearances:

Carolyn Silver, for the College

Anne E. Spafford and Kathryn E. Ball, for the registrant

RESTRICTION ON PUBLICATION

Pursuant to Rule 2.2.2 of the OPSDT Rules of Procedure and ss. 45-47 of the Health Professions Procedural Code, no one shall publish or broadcast the names of patients or any information that could identify patients or disclose patients' personal health information or health records referred to at a hearing or in any documents filed with the Tribunal. There may be significant fines for breaching this restriction.

Introduction

[1] The registrant, Dr. Turek, made unprofessional comments on social media and other online forums about the COVID-19 pandemic. She does not contest a finding of misconduct, and the parties have jointly submitted that the penalty should be a two-month suspension and a reprimand. Because the parties agreed on the penalty, we must adopt it, unless it is so unhinged that it would bring the professional discipline system into disrepute. As the penalty was appropriate, we made the order the parties requested at the hearing.

[2] Tribunal Chair David Wright conducted the case management conferences in this matter and sits on the panel with the consent of both parties.

Unprofessional Communications

[3] Dr. Turek pleaded no contest, which means she accepts that the uncontested facts are correct and constitute professional misconduct for the purposes of this proceeding.

[4] Dr. Turek identified herself as a physician on her Twitter and Facebook accounts. Her posts on those and other public platforms between 2020 and 2022 included:

- Inappropriate criticism of public health and government policies regarding COVID-19 that promoted prolonged lockdowns, masking, and vaccine mandates;
- promotion of Ivermectin/Hydroxychloroquine to treat COVID-19, contrary to public health recommendations;
- inappropriate criticism of the College due to its stances in support of public health recommendations around COVID-19 issues; and
- assertions that COVID-19 vaccines are unsafe and statements opposing vaccine mandates.

[5] The Tribunal has found on several occasions that such communications are professional misconduct. Dr. Turek spoke as a physician, and that gave her words more

weight. As the panel put it in *College of Physicians and Surgeons of Ontario v. Rona*, 2022 ONPSDT 45 at para. 13:

Since physicians hold a unique position of authority and public trust, their words and actions have the potential to significantly influence public perceptions and behaviour. Members of the public are more likely to perceive a physician's Twitter feed as providing a balanced and reliable source of scientific information, and to give significant weight to health care information provided by physicians, given their profession.

[6] As noted in *College of Physicians and Surgeons of Ontario v. Matheson*, 2022 ONPSDT 27 at paras. 12 and 14, there was a particular impact to physicians' statements during the global public health crisis. Trained physicians publicly discouraging people from following public health guidelines and promoting unrecognized treatments undermined the actions of the public health authorities at a critical time.

[7] We are not suggesting that physicians can never criticize public health decisions. Of course, scientific debate is essential. But any such criticisms must be made in appropriate ways consistent with professionalism and the College's policy and advice to the profession on social media. This is no different than for other matters not connected with the pandemic. Consider the difference between an article in a medical publication suggesting a standard cancer treatment should no longer be used and a tweet impugning the integrity of physicians who provide that treatment and urging patients not to follow their physicians' recommended treatment options. Medical practice takes place within a context of accepted standards of care and regulatory requirements. That is no less true when speaking in public about matters affecting health than when treating patients individually.

[8] Dr. Turek's actions constituted disgraceful, dishonourable and unprofessional conduct as alleged.

Penalty

[9] When the parties have agreed on the penalty, our role is limited. As stated in *Matheson* at para. 17:

The Tribunal will accept and implement a joint submission in all but the most exceptional circumstances. There must be something completely unacceptable, unusual or unconscionable to reject it,

not just a disagreement or belief that a different outcome would better serve the public interest or be a more fit penalty. The Tribunal may not “tinker” with a joint submission, which is the result of a careful balancing by the parties of the relevant considerations.

[10] The parties cited several Tribunal cases involving improper communications about public health guidance during the COVID-19 pandemic. In one (*College of Physicians and Surgeons of Ontario v. Phillips*, 2023 ONPSDT 16) the registrant was revoked based on a joint submission and in another (*Rona*, above), the registrant undertook to resign and never reapply. In *Matheson*, above, the registrant was suspended for nine months.

[11] This case is not like those. Dr. Matheson’s misconduct included violating an undertaking he gave to the College, he had a discipline history and had been recently cautioned by the Inquiries, Complaints and Reports Committee about related issues. Dr. Phillips’s improper communications were far more serious than those described here, and his misconduct also included failure to cooperate with the College and to comply with an interim order made by the Inquiries, Complaints and Reports Committee. His misconduct included failings with his care of patients and he was found to be incompetent. Dr. Rona’s misconduct included failings in patient care and more extreme communications.

[12] The decisions in *College of Physicians and Surgeons of Ontario v. Waddell*, 2020 ONCPSD 9 and *College of Physicians and Surgeons of Ontario v. Maciver*, 2020 ONCPSD 10 involve misconduct on social media that, like this case, is at the lesser end of the spectrum of seriousness. Dr. Waddell, who used highly inappropriate language in the context of a privileging dispute to describe others and divulged a patient’s medical information, received a three-month suspension. Dr. Maciver, who engaged in an “online tirade” against two colleagues, received a one-month suspension. This penalty is within that range, demonstrating its appropriateness.

[13] The registrant has undertaken to attend instruction on professionalism and medical ethics satisfactory to the College and to advise the College of all her practice locations. This education promotes her rehabilitation and the protection of the public.

[14] The parties have agreed to costs of \$6,000, reflecting the tariff rate in the Rules of Procedure.

Order

[15] Our order provides:

1. The Tribunal requires the registrant to appear before the panel to be reprimanded.
2. The Tribunal directs the Registrar to: a. suspend the registrant's certificate of registration for two (2) months commencing December 16, 2023, at 12:01 a.m.
3. The Tribunal requires the registrant to pay the College costs of \$6,000 by January 15, 2024.

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**The Tribunal delivered the following Reprimand
by videoconference on Friday, December 15, 2023.**

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

Dr Turek,

As a registrant of the College of Physicians and Surgeons of Ontario you are expected to adhere to its policies and guidelines. Physicians in our society are held in high regard, and along with the privilege of practicing medicine comes a responsibility to maintain professionalism in your communications. You identified yourself as a physician on Twitter and Facebook. It is expected that communication via social media be measured, thoughtful, non-inflammatory, and respectful of your colleagues. The mere fact of being a physician lends credibility to what you say, and your inappropriate and misinformed comments may have been construed as medical advice by a public audience that may expect your posts as a physician to be true.

The spread of misinformation especially by using inflammatory and disrespectful language through the unfiltered world of social media can have a negative impact on both the public and the profession, and your postings may have contributed to vaccine hesitancy and a lack of adherence to public health measures, all in the time of a global pandemic and public health emergency.

Your suspension is brief, and your career as a physician in Ontario remains intact. It is hoped that during the next two months you will use your time wisely to reflect upon your misconduct, to consider the content, intent and impact your words may have had, and to further educate yourself in all aspects of professionalism.