

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. John Maitland Waddell, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the names of patients or any information that could disclose the identity of the patients referred to orally or in the exhibits filed at the hearing, 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 or 47... 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. Waddell,
2020 ONCPSD 9

**DISCIPLINE COMMITTEE
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**
which is Schedule 2 of the ***Regulated Health Professions Act, 1991***,
S.O. 1991, c. 18, as amended.

B E T W E E N:

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. JOHN MAITLAND WADDELL

PANEL MEMBERS:

**DR. P. CHART (CHAIR)
MS E. M. MILLS
MR. J. LANGS
DR. D. PITT**

COUNSEL FOR THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO:

MS A. BLOCK

COUNSEL FOR DR. WADDELL:

MR. A. McKENNA

INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:

MR. D. ROSENBAUM

Hearing date:
Decision Date:
Release of Reasons Date:

January 27, 2020
January 27, 2020
March 3, 2020

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 January 27, 2020. 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. Waddell 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 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. Waddell admitted the allegations in the Notice of Hearing.

THE FACTS

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

PART I - FACTS

A. Background

1. Dr. John Maitland Waddell ("Dr. Waddell") received his certificate of registration authorizing independent practice from the College of Physicians and Surgeons of Ontario (the "College") on June 18, 1990.
2. From 2005 until early March 2015, Dr. Waddell worked in the Weeneebayko region providing family medicine services, under contract with various governing health authorities, and holding Active Staff privileges at Weeneebayko Area Health Authority ("WAHA") (or its predecessor).
3. WAHA provides health services in the Weeneebayko region along the James Bay and Hudson Bay coastal regions in northern Ontario in six communities: Moose Factory, Fort Albany, Attawapiskat, Moosonee, Kashechewan and Peawanuck. WAHA provides health care to the six communities it services through different types of facilities in each community. The Fort Albany and Attawapiskat Hospitals have some inpatient beds. Weeneebayko General Hospital ("WGH") is the largest health facility and provides the widest scope of health care in addition to inpatient services including 24-hour emergency services, family medicine, a regional mental health program, and various specialty clinics.

B. Dr. Waddell's Dispute at WAHA

4. In an application signed January 31, 2015, Dr. Waddell applied to the WAHA for an appointment to the Hospital's Medical Staff, Department of Family Medicine in the category of *locum tenens* for the 2015-2016 credentialing year. At the time of his application, he held Active Staff privileges at WAHA, and until March 2015 was providing Coastal Consultation services (a telecommute position) along the James Bay coast.

5. At its meeting September 25, 2015, the Medical Advisory Committee (the “MAC”) recommended to the WAHA Board of Directors (the “WAHA Board”) that Dr. Waddell not be re-appointed to Medical Staff. A copy of the MAC decision is attached to the Agreed Statement of Facts and Admission at Tab “A”.

6. Dr. Waddell requested a hearing before the WAHA Board to consider the MAC recommendation. The hearing took place over four days in November and December 2016. In its decision dated March 7, 2017, the WAHA Board adopted the MAC’s recommendation declining reappointment. A copy of the WAHA Board decision is attached to the Agreed Statement of Facts and Admission at Tab “B”.

7. Dr. Waddell appealed the WAHA Board’s decision to the Health Professions Appeal and Review Board (“HPARB”). The hearing took place over three weeks in November 2017 and January and February 2018. In its decision released May 8, 2018, HPARB confirmed the decision of the WAHA Board. A copy of the HPARB decision is attached to the Agreed Statement of Facts and Admission at Tab “C”.

8. On December 17, 2019, the Ontario Superior Court of Justice - Divisional Court dismissed Dr. Waddell’s appeal of the HPARB decision. A copy of the endorsement is attached to the Agreed Statement of Facts and Admission at Tab “D”.

9. Dr. Waddell has not been on site at WAHA or provided direct on-site physician services to WAHA since August 28, 2014. Dr. Waddell has not provided any physician services, including coastal call consultation services, to WAHA since March 2015.

C. Disgraceful, Dishonourable or Unprofessional Conduct re: Email Campaign

10. While Dr. Waddell’s privileging dispute was ongoing, Dr. Waddell sent emails to a wide audience which were unprofessional and offensive, and which Dr. Waddell knew or ought to have known could promote a negative reaction against physician leadership

within WAHA. This led to a further erosion of trust between Dr. Waddell and WAHA leadership.

11. For example, after the WAHA Board hearing was completed on December 14, 2016, Dr. Waddell used his hospital email to send two emails: one dated December 15, 2016 to all WAHA physicians and staff (Attached to the Agreed Statement of Facts and Admission at Tab “E”); the second dated December 15, 2016 to WAHA physicians (Attached to the Agreed Statement of Facts and Admission at Tab “F”). In these emails, Dr. Waddell characterized the MAC meeting of September 25, 2015 as the *“sort of justice seen in a Gestapo firing squad, a Wild West lynching, or the burning of the witches on the stake.”*

12. Dr. Waddell alleged that the Hospital had tried to *“illegally fire him”* and that he had been denied due process. He accused Dr. Green (Chief of Staff) of engaging in a reprisal against him and accused Dr. Green, Dr. Martens (Director of Family Medicine) and Mr. Schmidt (Chief Executive Officer) of breaching his confidentiality. He alleged that the three men had improperly used the *“might”* of WAHA to irreparably destroy his reputation and end his career.

13. Dr. Waddell’s communications were contrary to the Hospital’s email policy. In response, WAHA terminated Dr. Waddell’s access to hospital email service on December 16, 2016.

14. Dr. Waddell continued to send unprofessional and offensive emails which he knew or ought to have known could be received as threatening and harassing to the WAHA leadership, and specifically Dr. Green, Dr. Martens and Mr. Schmidt who testified on behalf of WAHA at the WAHA Board hearing. For example:

- In an email dated May 9, 2017, entitled “Weather Watch” to Drs. Green, Martens and Mr. Schmidt, Dr. Waddell wrote:

You may have won a couple of battles, but you shall not win the war. Your nefarious deeds committed through collusive lies shall bring you all down from the high places you think you all sit.

There is a hurricane developing throughout the territory headed straight towards the hospital. With that in mind, if any person or party at WAHA or WAHA's agents reveals ANY of my personal health information to any person or party without my written consent I shall hold the 3 of you responsible. (Attached to the Agreed Statement of Facts and Admission at Tab "G")

- In response to a letter sent by Ms. Deborah Hill (Chief Executive Officer and Vice President of Patient Care, and Chief Nursing Executive) to all WAHA Employees and Staff (Attached to the Agreed Statement of Facts and Admission at Tab "H"), Dr. Waddell made the following unprofessional comments to Ms. Hill, stating:

My advice to you Ms. Hill is to be careful where you stand for 2 reasons, my unfounded and inflammatory comments are extensively documented and soon to become very public knowledge and you are surrounded by liars. (Attached to the Agreed Statement of Facts and Admission at Tab "I")

- In response to an email dated May 12, 2017, written by Dr. Green (Attached to the Agreed Statement of Facts and Admission at Tab "J") and circulated to all WAHA employees, Dr. Waddell replied in email dated May 12, 2017 to Dr. Green, stating:

You are a liar. You did that to yourself. And the hate is yours, not mine. The misdeeds are on you not me. It's time for you to go. (Attached to the Agreed Statement of Facts and Admission at Tab "K")

- In a subsequent email dated July 16, 2017 to Dr. Green, Dr. Waddell stated:

... I am officially informing you, the Chief of Staff that I will be exercising freedom of opinion and expression as well as freedom of association. This will be in the form of Facebook messaging to my friends. (Attached to the Agreed Statement of Facts and Admission at Tab "L")

- In an email dated November 17, 2017 to Dr. Green, and copied to others in WAHA leadership, Dr. Waddell wrote:

It is very sad what you have done. Wielding the power, authority and resources of a public hospital is despicable. Enlisting so many to achieve your personal revenge is wicked. I hope to find room in my heart to forgive you sometime, maybe on the same day you extend to me one ounce of human decency. (Attached to the Agreed Statement of Facts and Admission at Tab "M")

D. Disgraceful, Dishonourable or Unprofessional Conduct re: Facebook Campaign

15. Commencing in or around May 2017, Dr. Waddell authored a series of Facebook posts in which he made unprofessional and far-reaching allegations against WAHA, senior management personnel and some of its Medical Staff which were widely accessible to the public. Facebook in the James Bay Region is an important tool for communication among residents.

- On or about May 6, 2017, Dr. Waddell wrote:

Would anyone who either lives/lived or works/worked in the Mushkegowuk Territory be at all interested in how the health system run by the Weeneebayko Area Health Authority kills, maims and endangers the patients of the region?

I have an incredible list of true stories that I'd love to tell over the next year that many would find informative from the ten years I served in the region before the Chief of Staff, the CEO, the Chief of Family Medicine and their hired hitmen ran me out of town. (Attached to the Agreed Statement of Facts and Admission at Tab "N")

- Dr. Waddell provided a Facebook update between May 9 and 7, 2017 stating:

I am eventually going to compile the Facebook stories into some form of a publication. It will be called 'The Red Genocide', a sad, yet appropriate name I feel.... (Attached to the Agreed Statement of Facts and Admission at Tab "N")

16. Throughout 2017, Dr. Waddell continued to make unprofessional and offensive Facebook posts, specifically identifying members of WAHA leadership, and WAHA's legal counsel, in a manner that he knew or ought to have known could be received as inflammatory and threatening:

- After receiving communication from WAHA counsel, Dr. Waddell wrote that the hospital was hiding behind an "outrageously expensive legal shield at the expense of the sick and wounded". Specifically, on or about May 11, 2017, Dr. Waddell posted:

[Counsel to WAHA] ... was hired by your hospital's CEO, Chief of Staff, Chief of Family Medicine and their thugs to do 2 things, cover up for their wickedness and malfeasance, and permanently silence my voice...

It sickens me to know that the hospital Chiefs hide behind their obscene and dastardly deeds behind an outrageously expensive legal shield at the expense of the regions sick and wounded.

All I know is we live in a free country and have a constitutional right to express ourselves. So [Counsel to WAHA], with all due respect, stuff it up your meci hole [excrement hole], as this doc has got a lot to say. (Attached to the Agreed Statement of Facts and Admission at Tab "O")

He continued to post unprofessional comments about WAHA's legal counsel and what he perceived as WAHA's attempts to pay her to silence him.

- In or around July 18, 2017, Dr. Waddell posted about members of WAHA Medical Staff, the Chairman of the Board and the CEO. Specifically, he asserted that Dr. Zahra Jaffer (President of the Medical Staff at WAHA) and Dr. Martens were committing "their own atrocities" to silence him. He posted in response to a comment from a member of the public on Facebook:

The corruption & incompetence is beyond belief... Wait until you see the chapters on Drs. Barkman & Ringrose, the chapter titled 'The Loon with a Crooked Beak' will make you vomit, I will also chronicle Green & Schmidt's manipulation of not only WAHA Bylaws, polices and agreements...to serve their ends, but also of young doctors like Martens and Jaffer who they enticed into their twisted circle to commit their own atrocities against me to silence my voice to tell my patients' stories. (Attached to the Agreed Statement of Facts and Admission at Tab "P")

- In or around July 23, 2017, in a post entitled “Show Me the Money”, Dr. Waddell accused Mr. Schmidt and Dr. Green of redirecting hospital money to silence him. He wrote:

CEO Schmidt, Chief of Staff Green and other senior people at WAHA have re-directed hospital money towards Toronto Lawyers. Hundreds of thousands of dollars and rising every day.

They have done this to silence my voice to tell your stories of how the WAHA health system fails the region’s patients. At first they forced me out in hopes that thousands of miles of distance muted my words. When that failed, there was a brutal and savage assault on my character with the purposeful intent to destroy my reputation and credibility, rendering the PATIENT STORIES that I tell unbelievable and unfounded.

..They’ve commanded huge amounts of money, the patients’ money to buy and make truth in the name of quality patient care. It is obscene, repulsive and hideous.
(Attached to the Agreed Statement of Facts and Admission at Tab “Q”)

- On or about July 30 or 31, 2017, in a post entitled “White Witness to a Red Genocide: Chapter: Over the Hill”, Dr. Waddell accused WAHA of outrageous conduct. He stated:

This story shows how the physicians’ philosophy at WAHA can kill, maim and endanger the Mushkegowuk patients. (Attached to the Agreed Statement of Facts and Admission at Tab “R”)

- In an August 2017 post entitled “A White Witness to a Red Genocide Chapter: Death by Phone”, Dr. Waddell wrote:

In ten years I saw phone medicine kill, maim and endanger hundreds of patients in the Territory...

There is NO doctor who would EVER have himself or their loved ones diagnosed over the phone. NONE. ... Yet it is perfectly fine for the Mushkegowuk people. Red Genocide my friends, a Red Genocide. Either stand and fight for your lives now, or remain sitting and wait your turn for the doctor call that places your life, limb or function in peril. (Attached to the Agreed Statement of Facts and Admission at Tab "S")

- In or around September 2017, in a post entitled "White Witness to a Red Genocide, Chapter: A Loon with a Crooked Beak," Dr. Waddell wrote in respect of Hospital Board Chair, Leo Loone:

There remains a rotting bird sitting on your health authority's fouling the nest and neglecting its' hatchlings. If this is acceptable to you say nothing, do nothing. If not, stand up and fight ... Your quest for these answers will lead to other hideous creatures that feast on such filth." (Attached to the Agreed Statement of Facts and Admission at Tab "T")

In November 2017, in a post entitled "Killing a White Witness", Dr. Waddell wrote:

It's wrong. Fucking wrong.

..[t]he corruption within WAHA is deep like a canyon, wide like a mountain, endless like the sky. It is everywhere. Corruption is WAHA, a monster that will do anything to survive. It has no choice but to kill the White Witness.

But how? Through organized and sustained attacks with intent to inflict grievous injury... In the dealings with me, there has been no fair play. There has been no law

and order. Nothing but savage and brutal attacks that they hold out as 'due process'. Paid for out of your hospital's bank account on the backs of the Territory's spilled blood, broken bones, nooses about necks, misery, suffering & death. (Attached to the Agreed Statement of Facts and Admission at Tab "U")

17. In its decision released May 8, 2018, HPARB found:

The Appeal Board finds that Dr. Waddell's conduct in the above social media postings to clearly demonstrate his continued inability to conduct himself in a fashion that might demonstrate cooperation with the Board or WAHA's leadership. His multiple misleading and serious allegations against WAHA, its employees and its staff based on incidents that took place many years ago, including incidents that would have occurred while Dr. Waddell was in a position of administration and leadership. The posts, while problematic for many reasons, are particularly concerning given the impression Dr. Waddell is conveying to the public that the incidents are current issues in the community despite the fact that these events occurred some years ago and are stated according to Dr. Waddell's perspective and may not be accurate. Indeed, Dr. Waddell has not been onsite at WAHA or provided direct on-site physician services to WAHA's patients since 2014. Dr. Waddell has not provided any physician services, such as Coastal Call consultation services, to WAHA since March 2015.

18. Dr. Waddell continued to author posts on Facebook in 2018 that were unprofessional:

- In or around May 31, 2018, after the release of the HPARB decision confirming the Board's decision not to reappoint Dr. Waddell, in a post entitled "A White Witness to Red Genocide, Chapter: License to Kill the Red man", Dr. Waddell wrote:

Read the HPARB and WAHA Decisions... You will see how the white man'[s] manipulation of the facts and their law permits the death and injury of you, your children, your grandchildren... Bottom line is any doctor who attempts to stop the corruption and incompetence that kills or maims any of you shall be ruled disruptive and unworthy....

...so many of those that I so deeply cared for shall needlessly die and suffer in all of the days that follow forever. (Attached to the Agreed Statement of Facts and Admission at Tab "V")

- In a subsequent post, entitled "Meci Sandwich" (meaning "Excrement Sandwich"), Dr. Waddell wrote:

A day will come when the likes of Bernie Schmidt, Gordon Green, Kelly Reuben, Ben Martens, Caroline Lidstone-Jones, Zahra Jaffer, Robert Gagnon, Janice Soltys, and the rest of their twisted allies will have to answer to their actions as reflected in real facts, not their fiction. In doing so, their walls of deceit, denial, deflection & determent will fall down around them, leaving them exposed and naked to be judged for what they have done. There can be no better end then to watch them feast on the meci sandwiches that they made for others to eat. (Attached to the Agreed Statement of Facts and Admission at Tab "W")

- In June 2018, in a post entitled "Lying L-Stone", about WAHA's Chief Quality Officer, Caroline Lidstone Jones, Dr. Waddell stated:

Lies of her knowledge of my allegations. Lies about writing the incident report. Lies about receiving the complaint. All to shore up the lies, nonsense and other poppycock of Shaking Man [Green] & Bull Schmidt. (Attached to the Agreed Statement of Facts and Admission at Tab "X")

E. Impact of Dr. Waddell's Unprofessional Facebook Campaign

19. Members of WAHA leadership and physicians practising at WAHA at that time have indicated that Dr. Waddell's Facebook posts and emails impacted the community and WAHA's ability to provide medical services, creating an environment of mistrust and anger towards WAHA physicians and staff, with the resulting consequences: the resignation of physicians, difficulty recruiting new physicians, difficulties for physicians communicating with and effectively treating their patients and negative impact on staff morale.

F. Disgraceful, Dishonourable or Unprofessional Conduct re Dr. Waddell's Disclosure of Patient Information

20. Some of Dr. Waddell's public Facebook posts disclosed patient information that Dr. Waddell had no authority to disclose. The posts included descriptions of medical conditions, medical procedures outcomes, and particulars regarding patients. The details described were sufficient to permit the patients to identify themselves. One patient complained to the College about a series of posts, noting that she did not give Dr. Waddell consent to speak about her experience.

21. In Dr. Waddell's response to the College, he offered his apology to the patient who complained.

G. Conduct Inconsistent [with] College Policy

22. Dr. Waddell's conduct described above is inconsistent with professional obligations including those as articulated in Policy Statement 43-16 Physician Behaviour in the Professional Environment (Attached to the Agreed Statement of Facts and Admission at Tab "Y"), and in Social Media – Appropriate Use by Physicians

(Attached to the Agreed Statement of Facts and Admission at Tab “Z”) which set the following expectations, among other things:

- Physicians are expected to act in a respectful, courteous and civil manner towards their patients, colleagues and others involved in the provision of health care. Doing so fosters an atmosphere of trust, shared accountability and collaboration. Behaviour that is unprofessional and or disruptive undermines medical professionalism and the trust of the public;
- Physicians are expected to uphold the standards of medical professionalism, conduct themselves in a professional manner. Physicians are expected not to engage in disruptive behaviours because they undermine professionalism as well as a culture of safety;
- Exercise caution when posting information online that relates to an actual patient. Bear in mind that an unnamed patient may still be identified through a range of other information, such as their clinical condition or area of residence; and,
- Protect the reputation of the profession and the public trust by not posting content that could be viewed as unprofessional.

PART II - ADMISSION

23. Dr. Waddell admits the facts specified above, and admits that, based on these facts, he engaged in professional misconduct, in that:

- (a) He engaged in an act or omission relevant to the practise of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, under paragraph

1(1)33 of O. Reg. 856/93, made under the *Medicine Act, 1991* ("O/Reg. 856/93"); and

- (b) He engaged in conduct unbecoming a physician.

FINDINGS

The Committee accepted as correct all of the facts set out in the Agreed Statement of Facts and Admission. Having regard to these facts, the Committee accepted Dr. Waddell's admission and found that he committed an act of professional misconduct under paragraph 1(1)33 of O. Reg. 856/93, in that he has engaged in an act or omission relevant to the practise of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional; and under paragraph 1(1)34 of O. Reg. 856/93, in that he has engaged in conduct unbecoming a physician.

PENALTY AND REASONS FOR PENALTY

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

The Committee should not reject a joint submission as to an appropriate penalty and costs unless the proposed disposition would bring the administration of justice into disrepute or is otherwise contrary to the public interest. (*R. v. Anthony-Cook*, 2016 SCC 43).

The relevant principles for assessing an appropriate penalty are: public protection; maintaining the integrity of the profession and public confidence in the profession's ability to regulate itself in the public interest; specific deterrence; general deterrence; and where applicable or appropriate, rehabilitation of the member. Other principles

include denunciation of the misconduct and proportionality. The Committee should consider both mitigating and aggravating factors.

The Committee recognizes the importance of free speech in our democratic society and also the boundaries of free speech. Crude and offensive language, unfounded criticisms and personal attacks for revenge are not acceptable. Patient advocacy by physicians, which may include constructive criticism, is admirable, but it must not devolve into destructive criticism of the sort demonstrated in Dr. Waddell's communications. Civility must be maintained. The College's policy "Physician Behaviour in the Professional Environment" emphasizes this; it advises physicians that:

"Physicians are expected to act in a respectful, courteous and civil manner towards their patients, colleagues and others involved in the provision of health care. Doing so fosters an atmosphere of trust, shared accountability and collaboration and is an essential component to upholding the values and principles of medical professionalism. Conversely, behaviour that is unprofessional and/or disruptive undermines medical professionalism and the trust of the public."

The Policy also states that physicians embody the values and uphold the reputation of the profession by, among other things, "Communicating effectively and with respect, sensitivity and compassion." The Policy contains a reminder to physicians "that the expectation for professional behaviour remains even in the context of advocacy or conflict." This reminder is particularly germane to this case given that Dr. Waddell's unprofessional and offensive communications were made in the course of an ongoing privileging dispute with his governing health authority.

The College's Position and Initiative "Social Media-Appropriate Use by Physicians" states that in their use of social media, as with their medical practices in general, physicians must "Maintain professional and respectful relationships with patients,

colleagues and other members of the health-care team.” In order to satisfy professional expectations while engaging in social media, the document recommends that physicians “Protect their own reputation, the reputation of the profession and the public trust by not posting content that could be viewed as unprofessional.” In his Facebook postings, Dr. Waddell failed to meet these obligations.

Aggravating Factors

Dr. Waddell’s communications caused distrust in the community and decreased the ability of the WAHA and physicians to provide proper medical care. Morale of health care workers decreased. Resignations of physicians increased and the recruitment of new physicians was impaired. This was an especially significant problem in an underserved area.

Mitigating Factors

Dr. Waddell did admit the facts when they were presented to him, and to his having engaged in professional misconduct. He agreed to the joint submission on penalty. This saved the College the expense of a contested hearing and avoided wasting the time and effort that would be required of the witnesses who would have had to testify at a hearing. Dr. Waddell had no history of any previous discipline proceedings and there was no concern about his competence in the clinical management of patients. He offered an apology to the patient who complained about his divulging her medical information. Although his actions were inappropriate and unprofessional, his stated intention was to advocate for the benefit of patients.

Prior Cases

Although no two cases are identical, the Committee was aware that reviewing previously-decided similar cases can assist in determining the appropriate level of

penalty. The Committee considered five prior cases that were presented and found them to be useful in its deliberations.

Three of the cases (CPSO v. Drone 2018, CPSO v. Goodwin 2018, CPSO v. Tjandrawidjaja 2018) involved inappropriate, crude and unprofessional communications by physicians regarding the Ontario Medical Association and its then-current president. The penalties included reprimands and cost orders in all three cases, a suspension of one month in two of the cases, and in one of the cases, a term, condition and limitation on the member's certificate of registration that he complete the PROBE course in ethics. The conduct in Dr. Waddell's case was more serious than that of the physicians in these three cases, in that it continued over a lengthy and sustained period, and it included unauthorized disclosure of patient information in public Facebook posts that were sufficient to allow patients to identify themselves.

The other two cases (CPSO v. Podell 2017, CPSO v. Bhatt 2016) concerned disruptive behaviour by physicians in the clinical environment involving both other health care professionals and patients over lengthy periods of time. The penalties included suspensions of three and four months, respectively, the imposition of terms, conditions and limitations on the physician's certificate of registration (which could be described as tailored remediation), reprimands and costs.

CONCLUSION

The Committee was satisfied that the proposed penalty met the relevant principles and was consistent with the prior cases that it reviewed. The reprimand and the three-month suspension will emphasize the seriousness of the egregious unprofessional conduct with its deleterious effect on colleagues and on patients, as well as on public confidence in the medical profession. They will serve as a specific deterrent to Dr. Waddell against engaging in such conduct ever again. They will act as a general deterrent to the profession, by sending a clear message that rude and abusive language

have no place in physicians' communications with other professionals, or the public. The public's confidence in the profession and in the College's ability to regulate the profession in the public interest will be maintained.

The proposed term, condition and limitation on Dr. Waddell's certificate of registration that he complete tailored, individualized instruction in professionalism and communications will assist in his rehabilitation.

The Committee was satisfied that this was an appropriate case in which to order that Dr. Waddell pay the College's costs and expenses incurred in conducting the hearing.

ORDER

The Committee stated its findings in paragraph 1 of its written order of January 27, 2020. In that order, the Committee ordered and directed on the matter of penalty and costs that:

2. Dr. Waddell to attend before the panel to be reprimanded.
3. The Registrar suspend Dr. Waddell's certificate of registration for a period of three (3) months, commencing from January 28, 2020 at 12:01 a.m.
4. The Registrar to place the following terms, conditions and limitations on Dr. Waddell's certificate of registration, effective immediately:
 - (i) Dr. Waddell shall comply with the College Policy "Closing a Medical Practice;"
 - (ii) Dr. Waddell will participate in and successfully complete, within six (6) months of the date of this Order, individualized instruction in professionalism and communications satisfactory to the College, with an

instructor approved by the College, who shall provide a summative report to the College including his/her conclusion about whether Dr. Waddell successfully completed the instruction.

(iii) Dr. Waddell shall be solely responsible for payment of all fees, costs, charges, expenses, etc., arising from the implementation of any of the terms of this Order.

5. Dr. Waddell pay costs to the College in the amount of \$10,370.00 within 30 days of the date of this Order.

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

DR. D. PITT

TEXT of PUBLIC REPRIMAND
Delivered January 27, 2020
in the case of the
COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO
and
DR. JOHN MAITLAND WADDELL

Dr. Waddell:

The practice of medicine is more than a technical exercise. We acknowledge that your clinical care of patients is not in question. What is in issue is behaviour which falls short of accepted professional conduct.

While purporting to advocate for patients, you endangered patient privacy and did serious damage to the trust and confidence in WAHA.

In fact, this hurt the community by undermining trust in the care they expected. Despite your intention to advocate, your disruptive behaviour towards colleagues and hospital administration caused patient harm.

The evidence before us shows a pattern of outrageous behaviour, not limited to social media, but involving difficult, obstructive relationships with colleagues. This is sad and shameful to see. Such behaviour results in distrust of the medical profession by patients, difficulty recruiting new doctors and early departure of staff. And, this is all the more important in an underserved area.

We trust the insight you have gained and the tools you will have from your targeted remediation will allow you to channel your passion and result in further future conduct which is beyond reproach.