

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Fernand Gaston Vincent Nadon, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of the patients or any information that could disclose the identity of the patients, under subsection 47(1) 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. Nadon, 2020 ONCPSD 32

**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. FERNAND GASTON VINCENT NADON

PANEL MEMBERS:

**MR. PIERRE GIROUX (CHAIR)
DR. JOANNE NICHOLSON
MR. JOHN LANGS
DR. JOHN RAPIN
DR. JAMES WATTERS**

COUNSEL FOR THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO:

MS CAROLYN SILVER

COUNSEL FOR DR. NADON:

MS LAURA B. STEWART

INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:

MS JENNIFER McALEER

Hearing Date and Decision Date: April 15, 2020
Release of Reasons Date: July 14, 2020

PUBLICATION BAN

DECISION AND REASONS FOR DECISION

The Discipline Committee (the “Committee”) of the College of Physicians and Surgeons of Ontario (“the College”) heard this matter by teleconference on April 15, 2020. On April 15, 2020, 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. Fernand Gaston Vincent Nadon (“Dr. Nadon”) has committed an act of professional misconduct:

1. under clause 51(1)(b.1) of the Health Professions Procedural Code which is schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18 (the “Code”) in that he engaged in sexual abuse of a patient;
2. 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
3. under clause 51(1)(a) of the Code, in that he has been found guilty of an offence that is relevant to his suitability to practise.

THE FACTS

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

Background

1. Dr. Fernand Gaston Vincent Nadon (“Dr. Nadon”) is a 58 year-old physician who received his certificate of registration authorizing independent practice from the College of Physicians and Surgeons of Ontario (“the College”) on September 17, 1986. At the relevant time, Dr. Nadon practised at the University of Ottawa Health Services in Ottawa, Ontario.
2. On May 16, 2018, the ICRC directed the Registrar to suspend Dr. Nadon’s certificate of registration, without notice, under s. 25.4(7) of the Health Professions Procedural Code, which is Schedule 2 to the *Regulated Health Professions Act, 1991*. A copy of the Order dated May 16, 2018 and the ICRC’s reasons in support of its interim Order are attached at Tabs 1-2 to the Statement of Facts.
3. In January 2018, Dr. Nadon was charged with sexual assault and voyeurism after one of his patients complained that he made a video recording of her clinical appointment with him, without her consent, using his personal mobile phone during a medical exam at the University of Ottawa Health Services. The patient alleged that she had watched a recording that Dr. Nadon made of her entire appointment including her disrobing in the room alone and her physical examination (including her breasts and vagina). The appointment was for the patient's pap smear screening procedure.
4. Immediately after the appointment, the female patient notified the receptionist and a nurse about her concerns.
5. The office manager spoke with Dr. Nadon in the evening of January 16, 2018. He admitted to video recording the clinical procedure of the patient without her consent on his personal phone, but advised that he did it for future teaching purposes. He told staff that he deleted the video recording in front of the patient and did not keep a copy.
6. The female patient reported the matter to the Ottawa police. Dr. Nadon was arrested on January 18, 2018 and charged with one count of sexual assault and voyeurism.

7. Subsequent to a news release, additional patients came forward to the Ottawa Police alleging that they too felt that they had been surreptitiously videotaped during their interactions with Dr. Nadon.
8. Dr. Nadon was removed from his position at the University of Ottawa Clinics. Dr. Nadon was charged with 94 charges of voyeurism and sexual assault involving 51 victims.
9. On December 5, 2018, Dr. Nadon pleaded guilty to 14 counts of voyeurism and sexual assault relating to 49 victims. He pleaded guilty to sexually assaulting 21 victims, and to voyeurism in relation to 38 victims. All of the victims were his patients. A copy of the information with Dr. Nadon's plea and sentence is attached at Tab 3 to the Statement of Facts. The transcript of the December 5, 2018 proceedings is attached at Tab 4 to the Statement of Facts, which include the facts admitted by Dr. Nadon in the criminal proceeding, which are admitted by him in this proceeding as well. These included the following facts:

The accused, Vincent Nadon, is a medical doctor who at the relevant time maintained a family medicine, travel medicine and immigration medicine practice with the University of Ottawa Health Services. Many of the victims identified below were recent immigrants to Canada...

...In January 2018 Patient A attended at the University of Ottawa Health Services Clinic located at 316 Rideau Street. Patient A was seen by the accused, Vincent Nadon, in an examination room at the clinic where she had a reasonable expectation of privacy and where she could reasonably be expected to expose her genital organs, anal region or breasts.

The accused, Vincent Nadon, conducted a physical examination of Patient A which included a breast examination and a Pap test, which were performed for a sexual purpose, without the consent of Patient A. The accused, Vincent Nadon, surreptitiously video recorded Patient A in the examination room with an iPhone

hidden in a cabinet. The video recording captured the physical examination during which Patient A's breasts were exposed to the camera as well as her undressing and dressing in the examination room. The video recording made by the accused, Vincent Nadon, did not serve the public good, which relates to a possible defence in the *Criminal Code*.

After Patient A was dressed, she noticed the phone and picked it up and examined it. She observed it was recording. She stopped the recording and reviewed the video which began with Mr. Nadon placing the phone in the cabinet. Patient A confronted Nadon with the phone. He initially denied that it was recording. After unlocking the phone and viewing the video he apologized and stated that he sometimes recorded exams for training purposes. When Patient A asked why she had not been advised of this in advance in order to provide consent, Nadon agreed, apologized and deleted the video in front of her.

On January...2018 the - which is the following day, Nadon was observed leaving his residence and driving to the vacant parking lot at the FreshMart in Chelsea, Quebec. At 2301 hours he was observed placing a black garbage bag into the garbage dumpster. The garbage bag contained a computer hard drive broken in two pieces. The hard drive had been damaged and no data was able to be retrieved from it.

A search warrant was executed by the Ottawa Police on January 18th, 2018 at the residence of Vincent Nadon. A computer hard drive was seized from the office area of the home and examined. The examination revealed 42 videos that had been copied from an iPhone and then deleted.

...

At the University of Ottawa Health Services the accused, Vincent Nadon, would see and examine patients in clinic examination rooms. When in those clinic examination rooms, patients had a reasonable expectation of privacy. When in

clinic examination rooms, these patients were in a place where they could reasonably be expected to expose their genital organs, anal region or breasts. Between January 20th, 2010 and August 30th, 2011 the accused, Vincent Nadon, surreptitiously made video recordings of the following patients while they were in examination rooms at the University of Ottawa Health Services Clinic located at 100 Marie Curie Private:

1. Patient B. In January 2010 the video captured the physical examination during which Patient B's breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient C. In January 2010, capturing the physical examination during which Patient C's breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient D. In January 2010, capturing the physical examination during which Patient D.'s breasts were exposed to the camera as well as her undressing and dressing in the examination room. Nadon moved her clothing to a location that would cause her to get dressed in view of the camera.

Patient E. In January 2010, capturing the physical examination during which Patient E's breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient F. In February 2010, capturing the physical examination during which Patient F's breasts were exposed to the camera as well as her undressing and dressing in the examination room. Nadon moved her clothing to a location that would cause her to get dressed in view of the camera.

Patient G. In February 2010, capturing the physical examination during which Patient G's breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient H. In February 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient I. In February 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient J. In February 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient K. In February 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient L. In February 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient M. In March 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient N. In March 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient O. In March 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient P. In March 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room. Nadon moved her clothing to a location that would cause her to get dressed in view of the camera.

Patient Q. In June 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room. Nadon moved her clothing to a location that would cause her to get dressed in view of the camera.

Patient R. In June 2010, capturing the physical examination during which Patient R's breasts were exposed to the camera as well as her dressing in the examination room.

Patient S. In June 2010, capturing the physical examination during which Patient S's breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient T. In July 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room. Nadon moved her clothing to a location that would cause her to get dressed in view of the camera.

Patient U. In July 2010, capturing her dressing in the examination room.

Patient V. In September 2010, capturing her undressing in the examination room.

Patient W. In September 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient X. In September 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room. Nadon moved her clothing to a location that would cause her to get dressed in view of the camera.

Patient Y. In November 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room. Nadon moved her clothing to a location that would cause her to get dressed in view of the camera.

Patient Z. In November 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room. Nadon moved her clothing to a location that would cause her to get dressed in view of the camera.

Patient AA. In November 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient BB. In November 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient CC. In November 2010, capturing the physical examination during which her breasts were exposed to the camera.

Patient DD. In December 2010, capturing her getting dressed in the examination room.

Patient EE. In December 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room. Nadon moved her clothing to a location that would cause her to get dressed in view of the camera.

Patient FF. In December 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient GG. In December 2010, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient HH. In January 2011, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room. Nadon moved her clothing to a location that would cause her to get dressed in view of the camera.

Patient II. In February 2011, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing in the examination room.

Patient JJ. In February 2011, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient KK. In February 2011, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient LL. In March 2011, capturing her dressing in the examination room.

Patient MM. In March 2011, capturing the physical examination during which her breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient NN. In June 2011, capturing the physical examination during which Patient NN's breasts were exposed to the camera as well as her undressing and dressing in the examination room.

Patient OO. In August 2011, capturing her getting dressed in the examination room.

...

Between January 2010 and February 2011 the accused, Vincent Nadon, conducted physical examinations on the following patients at the University of Ottawa Health Services Clinic located at 316 Rideau Street.

1. Patient PP. In January 2010, at which time the accused, Vincent Nadon, touched her breasts for a sexual purpose without her consent, by reaching from behind and cupping both breasts at once.

2. Patient QQ. In January 2010, at which time the accused, Vincent Nadon, commenced a Pap test with only one hand gloved, then proceeded to remove that glove and reinserted his gloveless hand into the patient's vagina, after first putting his fingers to his nose/mouth area, all for a sexual purpose and without the patient's consent. At the end of the examination he made a no - noise near the garbage can as though he were removing gloves and discarding them.

3. Patient RR. In February 2010, at which time the accused, Vincent Nadon, touched her left breast for a sexual purpose and without her consent.

4. Patient SS. In February 2010, at which time the accused, Vincent Nadon, touched her breast by reaching from behind and cupping both breasts at once, as well as commenced a Pap test with only one hand gloved, proceeded to remove that glove and then reinserted his gloveless hand into the patient's vagina after first putting his fingers to his nose/mouth area, all for a sexual purpose and without the patient's consent. At the end of the examination he made a noise near the garbage can as though he were removing gloves and discarding them.

5. Patient TT. In February 2010, at which time the accused, Vincent Nadon, performed a Pap test with only one hand gloved, which was for a sexual purpose and without the patient's consent. At the end of the examination he made a noise near the garbage can as though he were removing two gloves and discarding them.

6. Patient UU. In March 2010, at which time the accused, Vincent Nadon, performed a Pap test with only hand gloved, which was for a sexual purpose, and without the patient's consent.

Patient VV. In March 2010, at which time the accused, Vincent Nadon, performed a Pap test with only one hand gloved, which was for a sexual purpose and without the patient's consent.

8. Patient WW. In March 2010, at which time the accused, Vincent Nadon, touched her breasts by pushing them together and performed a Pap test with only one hand gloved, all of which was for a sexual purpose and without the patient's consent.

9. Patient XX. In November 2010, at which time the accused, Vincent Nadon, touched her breasts for a sexual purpose and without her consent. Nadon reached from behind and touched both breasts at once in a groping manner and pinched both nipples. He moved the patient's face to the camera, had her bend over and shake her breasts and then he said, "marvelous".

10. Patient YY. In February 2011, at which time the accused, Vincent Nadon, touched her breasts for a sexual purpose without her consent.

As a result of the initial charges laid in relation to the complainant, Patient A, a media release was issued and a number of other victims came forward, including the following victims:

Patient ZZ. Between November 1990 and July 2002 Patient ZZ attended at the University of Ottawa Health Services Clinic located at 100 Marie Curie Private where she was seen by the accused, Vincent Nadon. The accused, Mr. Nadon, conducted an examination during which he touched Patient ZZ's breasts for a sexual purpose and without her consent.

Patient AAA. Between October 1992 and November 1993 Patient AAA attended at the University of Ottawa Health Services Clinic located at 100 Marie Curie

Private where she was seen by the accused, Vincent Nadon. The accused, Mr. Nadon, conducted vaginal examinations without gloves and breast examinations during which he shook her breasts and pinched her nipples and made inappropriate comments about her breasts, all for a sexual purpose and without her consent.

Patient BBB. In February 1993 Patient BBB attended at the University of Ottawa Health Services Clinic located at 100 Marie Curie Private for a referral to a psychologist. She was seen by the accused, Vincent Nadon, in an examination room at the clinic. After asking Patient BBB to disrobe, the accused, Vincent Nadon, conducted a medically unnecessary physical examination of Patient BBB during which he touched her naked body. He touched her body for a sexual purpose without her consent.

Patient CCC. In June 1995 Patient CCC attended at the University of Ottawa Health Services Clinic located at 100 Marie Curie Private where she was seen by the accused, Vincent Nadon, in an examination room at the clinic. Vincent Nadon conducted a breast examination of Patient CCC during which he grabbed and pinched her nipples for a sexual purpose without her consent.

Patient DDD. In March 1997 Patient DDD attended at the University of Ottawa Health Services Clinic located at 100 Marie Curie Private for an immigration physical where she was seen by the accused, Vincent Nadon. The accused, Vincent Nadon, conducted a physical examination of Patient DDD which included an internal vaginal examination which was medically unnecessary and performed for a sexual purpose without her consent.

Patient EEE. Between January 1999 and December 2004 Patient EEE attended at the University of Ottawa Health Services Clinic located at 100 Marie Curie Private where she was seen by the accused, Vincent Nadon. During the procedure to

remove a genital wart, the accused, Vincent Nadon, touched her genital area for a sexual purpose and without her consent.

Patient FFF. In September 2012 Patient FFF attended at the University of Ottawa Health Services Clinic located at 100 Marie Curie Private where she was seen by the accused, Vincent Nadon, in an examination room. The accused, Vincent Nadon, conducted a vaginal examination during which he touched her clitoris for a sexual purpose, without the consent of Patient FFF.

Patient GGG. In May 2013 Patient GGG attended at the University of Ottawa Health Services Clinic where she was seen by the accused, Vincent Nadon. Vincent Nadon stared at Patient GGG's naked body and asked her inappropriate questions about her sexual history while he conducted a physical exam for a sexual purpose and without the consent of Patient GGG. At the completion of the exam he remained in the examination room while Patient GGG got dressed and told her, "It's fine. I see parts of you that you'll never see."

Patient HHH. In May 2015 Patient HHH attended the University of Ottawa Health Services Clinic where she was seen by the accused, Vincent Nadon. Vincent Nadon touched Patient HHH's breasts for a sexual purpose, without the consent of Patient HHH.

Patient III. In August 2017 Patient III attended at the University of Ottawa Health Services Clinic located at 316 Rideau Street with the complaint of sore ribs. She was seen by the accused, Vincent Nadon, in an examination room at the clinic. Patient III. lifted the side of her shirt for her ribs to be examined. After feeling her ribs, without forewarning or consent, the accused, Vincent Nadon, groped both of Patient III's breasts over her bra. The accused, Vincent Nadon, touched her breasts for a sexual purpose without her consent.

10. Dr. Nadon's criminal sentence included a global sentence of eight (8) years in jail (seven to be served after sentencing, given time spent in pre-trial custody).

11. At sentencing, Dr. Nadon's lawyer submitted that Dr. Nadon "will undoubtedly see his licence revoked once the College finishes with their process" as a result of his "gross breach of trust ... over a lengthy period of time" (p. 87). In his reasons for sentence, the judge agreed that Dr. Nadon's breach of trust was "egregious" and noted that "the conviction will most likely strip you of your licence to ever practice any kind of medicine ever again" (p. 110).

12. Dr. Nadon does not contest the facts specified above, and does not contest that, based on these facts, he engaged in professional misconduct, in that:

- (a) he engaged in sexual abuse of a patient, under clause 51(1)(b.1) of the Health Professions Procedural Code which is schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18 (the "Code");
- (b) 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, under paragraph 1(1)33 of Ontario Regulation 856/93, made under the *Medicine Act, 1991* ("O/Reg. 856/93"); and
- (c) he has been found guilty of an offence that is relevant to his suitability to practise, under clause 51(1)(a) of the Code.

RULE 3.02 – PLEA OF NO CONTEST

Rule 3.02 of the Rules of Procedure of the Discipline Committee regarding a plea of no contest states:

- 3.02(1) Where a member enters a plea of no contest to an allegation, the member consents to the following:

- a) that the Discipline Committee can accept as correct the facts alleged against the member on that allegation for the purposes of College proceedings only;
- b) that the Discipline Committee can accept that those facts constitute professional misconduct or incompetence or both for the purposes of College proceedings only; and
- c) that the Discipline Committee can dispose of the issue of what finding ought to be made without hearing evidence.

FINDING

The Committee accepted as correct all of the facts set out in the Statement of Facts . Having regard to these facts, the Committee found that Dr. Nadon committed an act of professional misconduct under:

- (i) clause 51(1)(b.1) of the Health Professions Procedural Code, which is Schedule 2 of the *Regulated Health Professions Act, 1991*, in that he sexually abused a patient.
- (ii) paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, 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.
- (iii) clause 51(1)(a) of the Health Professions Procedural Code, which is Schedule 2 of the *Regulated Health Professions Act, 1991*, in that he has been found guilty of an offence relevant to his suitability to practice.

PENALTY AND REASONS FOR PENALTY

Evidence and Submissions on Penalty

Counsel for the College and counsel for Dr. Nadon took a joint position as to some aspects of an appropriate penalty order. The parties agreed that the Committee should order a reprimand and immediate revocation of Dr. Nadon's certificate of registration. The parties disagreed, however, with respect to the College's request that Dr. Nadon post security for therapy in the amount of \$786,940.00 (\$16,060.00 for each of 49 patients) and pay costs to the College in the amount of \$6,000. Dr. Nadon's counsel submitted that Dr. Nadon did not consent to these aspects of the penalty and cost order on the basis that he is impecunious and cannot make these payments.

College counsel submitted that, given some findings of sexual abuse took place after May 2017, revocation is mandatory under section 51(5)3(vi) of the Health Professions Procedural Code ("touching of a sexual nature of the patient's genitals, anus, breasts or buttocks"). Further, Dr. Nadon has been convicted of sexual assault and voyeurism. These are criminal offences prescribed in Ontario Regulation 262/18 and for which revocation is mandatory under section 51(5)3.vii of the Code when there is a professional misconduct finding of sexual abuse of a patient.

In respect of funding for therapy, College counsel drew the Committee's attention to the witness impact statements read into the transcript of Dr. Nadon's criminal trial (Tab 4, appended to the Statement of Facts). The statements speak to the profoundly negative impacts of Dr. Nadon's misconduct on their emotional, psychological, and indeed physical well-being, their intimate and broader social relationships, and their difficulties in seeking medical care and engaging with others in positions of authority. The statements make clear that the impacts are lasting. Several women stated that they expect that it will take considerable time and effort to mitigate them, and a number have already engaged in professional therapy.

As stated above, counsel for Dr. Nadon stated that Dr. Nadon was unable to consent to the proposed therapy funding and hearing costs components of a penalty order because Dr. Nadon is impecunious. The Committee did not hear any submission that the proposals were unreasonable, nor was there evidence of Dr. Nadon's financial situation.

Analysis

The protection of the public is the paramount principle guiding the imposition of penalty. Other key considerations are maintaining the integrity of the profession and public confidence in the College's ability to regulate the profession in the public interest; denouncing wrongful conduct; specific deterrence as it applies to the member; general deterrence in relation to the membership as a whole; and, where appropriate, rehabilitating the member. The Committee heard no evidence or submissions on rehabilitation or specific deterrence and did not give any consideration to these principles as they are not applicable in this case.

A penalty which is fair, reasonable and appropriate must take into account the facts and circumstances of the case and weigh the penalty principles. The nature of the misconduct and aggravating and mitigating factors need to be considered. The penalty should be proportionate to the misconduct. Like cases should be treated alike and the Committee should have regard to penalties imposed in similar cases, although it is not bound by prior decisions.

Nature of the misconduct

Dr. Nadon engaged in the most egregious, shocking and reprehensible misconduct. He sexually abused 49 female patients by video recording them for his own sexual gratification without their knowledge or consent when they were undressing and

dressing and during intimate physical examinations. Further, he engaged in touching of many of these women for his own sexual purpose.

Dr. Nadon preyed on his patients and abused his position of power over them. They came seeking his care and expertise with their health problems and questions. Dr. Nadon's patients undressed solely for the purpose of receiving medical care from him. They allowed him to touch them only for a medical purpose. Dr. Nadon's actions were a gross breach of his patients' trust in circumstances in which they were most vulnerable and had the highest expectation of privacy.

The witness impact statements speak clearly to the profound harm sustained by Dr. Nadon's patients. Patients spoke of the enduring negative impacts on their personal relationships, their loss of trust in the medical profession, males and others, and of a pervasive sense of fear, suspicion, shame and vulnerability. Their statements poignantly portray feelings of betrayal, embarrassment, violation, powerlessness, disrespect, anger, sadness, and depression. One woman raised concerns about her children and how she as a parent will guide them in their interactions with doctors. Another mentioned her mother's guilt that she had failed to protect her daughter when she first allowed her to see Dr. Nadon alone as a teenager. The sense of betrayed trust for several women was made all the worse by the fact that they had felt a sense of safety and trust in Dr. Nadon after many years in his care. For some patients, he had been their only physician during their adult lives. Many patients were recent immigrants to Canada. One woman wrote that she never thought that "incidents such as this could occur" in Canada.

Dr. Nadon's horrendous conduct is utterly at odds with the values and responsibilities of the profession. One patient wrote: "I am now left scarred and skeptical of a system that was meant to protect me." Dr. Nadon's misconduct is a stain on the profession.

Aggravating Factors

Dr. Nadon engaged in repeated misconduct over nearly 30 years, beginning in the early 1990s and continuing until his actions were discovered by a patient in 2018.

Dr. Nadon engaged in more than one type of sexual misconduct, namely sexual touching under the guise of medical examinations, and surreptitious video recording of patients undressing for medical examinations.

Dr. Nadon's actions were planned and deliberate. He took care to place the recording device where it would not readily be identified and, on a number occasions, moved his patient's clothing to ensure she would be exposed to his camera when dressing.

Dr. Nadon attempted to conceal his misconduct by denying to Patient A that he was making a video recording of her and then by untruthfully stating to Patient A and to the clinic manager that the video recording was for teaching purposes.

Mitigating Factors

Dr. Nadon has had no other involvement with the discipline process, although the Committee puts no weight on this as it is now apparent that Dr. Nadon engaged in the most egregious misconduct throughout much of his career.

Dr. Nadon pleaded no contest to the misconduct allegations. His doing so reduced the time and cost of the discipline process to the College, and avoided the stress and burden on witnesses who may have been called to testify. However, the Committee heard no evidence or submissions to suggest that Dr. Nadon is remorseful or has accepted responsibility for his actions.

Prior Cases

College counsel provided a book of authorities.

Ontario (College of Physicians and Surgeons of Ontario) v. Onzuka, 2013 ONCPSD 27. In *Onzuka*, the physician pleaded no contest to allegations of sexual abuse of multiple patients over many years, involving videotaping, sexual touching and other improper conduct. He had pleaded guilty to criminal sexual assault of two patients. The College matter proceeded on the basis of a statement of uncontested facts and joint penalty submission. The penalty imposed was revocation, a reprimand, and a requirement to guarantee funding for therapy of the patients harmed. The physician's misconduct is similar in nature to that in the present matter but involved far fewer patients.

Ontario (College of Physicians and Surgeons of Ontario) v. Hwang, 2019 ONCPSD 33. In *Hwang*, the physician had surreptitiously videotaped friends in their bathroom, female guests in a bedroom in his own home, and a clinical encounter with a female patient. He initially denied his actions in respect of his friends but later pleaded guilty to and was convicted of criminal charges of voyeurism. He pleaded no contest to allegations of professional misconduct in respect of his actions and his criminal conviction. The matter proceeded on the basis of a statement of uncontested facts and a joint submission on penalty. The penalty ordered was revocation and a reprimand. The physician's misconduct shares some features with the present matter but the involvement of patients is far less and no order was requested or made in respect of funding for therapy.

Ontario (College of Physicians and Surgeons of Ontario) v. Dobrowolski, 2016 ONCPSD 2. In *Dobrowolski*, the physician was a psychiatrist who was convicted of criminal sexual assault of 16 patients and surreptitious video recording (voyeurism) in respect of nine patients, as well as breaching a court order that he not conduct physical examinations. He pleaded no contest to sexual abuse and multiple other forms of professional misconduct. He had a prior discipline history involving inappropriate touching and

inappropriate relationships. He was found to have engaged in sexual touching of a great many patients and to possess thousands of images of patients in various stages of undress. The Committee accepted a joint submission on penalty and ordered revocation, a reprimand, and that the physician guarantee the costs of funding for therapy provided to patients he had sexually abused (\$449,680.00).

Ontario (College of Physicians and Surgeons of Ontario) v. Doodnaught, 2018 ONCPSD

37. In *Doodnaught*, the physician was an anesthesiologist who had been criminally convicted of sexual assault of 21 patients, all of whom had been in surgery under conscious sedation administered by him. In the College proceeding, he pleaded no contest to sexual abuse of 31 patients and professional misconduct on multiple other grounds, including his conviction. The physician took no position on the matter of penalty and specifically on guaranteeing the costs of therapy for patients, but stated through his counsel that his financial situation would prevent him from posting the security requested by the College. The Committee ordered revocation, a reprimand, and that the physician guarantee funding of therapy (\$497,860.00 in total) to cover therapy costs for all 31 patients.

Revocation and a reprimand were in the penalty orders in each of the cases above, and were jointly proposed or not contested in each instance. The Committee also notes that security for funding of therapy was ordered in each case except *Hwang*, where there was no evidence on the impact of the misconduct on the one patient involved, and there was a joint penalty proposal.

CONCLUSION

Physicians, by the very nature of the practice of medicine, have access to their patients' most private selves and concerns. They observe patients in disrobed states as part of physical examinations and examine body areas of great sensitivity, privacy, and vulnerability. Members of the public rightly expect and must be able to trust that their

physicians will use their position, knowledge and skills for their patients' benefit in a respectful and safe manner.

The Committee accepts that immediate revocation of Dr. Nadon's certificate of registration is mandatory under current legislation. As well, revocation is jointly proposed by the parties. Regardless, the Committee's view is that removing Dr. Nadon from the profession is the only fit penalty for his deeply reprehensible and long-sustained misconduct, and is essential to protect the public from further misconduct by him. Revocation expresses the Committee's abhorrence of Dr. Nadon's actions, makes the public and profession aware that such horrific behaviour will not be tolerated, and serves as a deterrent to the membership at large.

The reprimand provides the Committee the opportunity to express its abhorrence of Dr. Nadon's conduct directly to him in public.

The Committee is aware that it has the jurisdiction to order Dr. Nadon to post security for the costs of therapy in respect of the 49 patients he is found to have sexually abused. The Committee had regard to *Ontario (College of Physicians and Surgeons of Ontario) v. Lee*, 2019 ONSC 4294 and finds that the impact statements provide evidence of profound and ongoing harms, that several women have sought or intend to seek professional therapy, and that mitigating these harms may take considerable time in the future. The Committee heard no evidence that any patients were not significantly harmed or do not intend to seek therapy. The Committee heard no submission that the College's proposal is unreasonable on the basis of therapy not being needed for any of the 49 patients. The only objection was on the basis of impecuniosity but there was no evidence that Dr. Nadon is impecunious. The Committee finds that it is appropriate that Dr. Nadon bear the costs of therapy for patients he sexually abused and that he reimburse the College and post security accordingly.

Costs

The Committee finds this an appropriate case in which to require the physician to reimburse the College for costs of \$6,000.00, for a one-half day hearing.

ORDER

The Committee stated its findings in paragraph 1 of its written order of April 15, 2020. In that order, the Committee ordered and directed on the matter of penalty and costs as follows:

2. **THE DISCIPLINE COMMITTEE ORDERS** Dr. Nadon to attend before the panel to be reprimanded.
3. **THE DISCIPLINE COMMITTEE DIRECTS** the Registrar to revoke Dr. Nadon's certificate of registration effective immediately.
4. **THE DISCIPLINE COMMITTEE ORDERS** Dr. Nadon to reimburse the College for funding provided to patients under the program required under section 85.7 of the Code, by posting an irrevocable letter of credit or other security acceptable to the College, within thirty (30) days of this Order in the amount of \$786,940.00 (\$16,060.00 per 49 patients).
5. **THE DISCIPLINE COMMITTEE ORDERS** Dr. Nadon to pay costs to the College in the amount of \$6000.00 within 30 days of the date of this Order.

TEXT of PUBLIC REPRIMAND
Delivered April 1, 2021
in the case of the
COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO
and
DR. FERNAND GASTON VINCENT NADON

This is not an official transcript

Dr. Nadon:

The dictionary defines the word “repugnant” as “extremely distasteful.”

Bearing this in mind, to say that your conduct is repugnant, and considered incompatible with the tenets of the medical profession is a gross understatement.

This Committee is shaken to have listened to the recitation of your immoral behaviour over so many years, involving so many individuals.

The impact of your actions on such a large number of patients is impossible to calculate, along with the shadow it has cast over both doctors and the medical profession.

Your certificate of registration has been revoked. This will protect the public from further predation by you. Your conduct, however, is a permanent stain on the profession. You have harmed patients who you were supposed to help. Because of you, many have undoubtably lost faith in this profession. Your actions will have long lasting negative effects.

You have brought shame to your profession and yourself. There is no longer any place for you in this profession.