

Indexed as: Salama, M.A. (Re)

**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. MAGDY ABDOU SALAMA

PANEL MEMBERS:

DR. M. DAVIE (CHAIR)
S. DAVIS
DR. B. LENT
DR. E. ATTIA (Ph.D)
DR. M. GABEL

Hearing Date:	October 14, 2011
Decision Date:	October 14, 2011
Release of Written Reasons:	November 21, 2011

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 October 14, 2011. 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. Magdy Abdou Salama 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 he 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 he has engaged in conduct or an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

RESPONSE TO THE ALLEGATIONS

Dr. Salama admitted the first allegation in the Notice of Hearing, that he failed to maintain the standard of practice of the profession. Counsel for the College withdrew the second allegation in the Notice of Hearing.

FACTS AND EVIDENCE

The following Agreed Statement of Facts was filed as an exhibit and presented to the Committee:

PART I - FACTS

1. Dr. Salama is a 56 year old family physician, whose independent practice certificate was issued in Ontario on January 24, 2007. Dr. Salama was educated in Egypt. Prior to practising in Ontario, he practised in Newfoundland.
2. In 2006, while Dr. Salama was practising in Newfoundland, he met the complainant, who is the daughter of a person with whom Dr. Salama had a close personal relationship. Neither the complainant nor her mother was ever a patient of Dr. Salama.
3. In October 2008, Dr. Salama was asked by a colleague, Dr. X, to assist him with a pilot study on sexuality. A pilot study is a preliminary study designed to gather information to assist in conducting a full scale study. The main investigator of the study was Dr. X, of the Faculty of Medicine at an Egyptian university.
4. The pilot study was entitled “Sexual Problems among male and female aged 18 – 28, in different ethnic groups: Prevalence, Perceptions related to sex and association with quality of life” (the “Study”), and was a survey. The objectives of the Study were to clarify the impact of social, physical and emotional factors on the prevalence of sexual problems in the age group 18 – 28, and to identify sexual problems and satisfaction in this age group. Subjects were asked to answer questions about sexual satisfaction and sexual arousal. Subjects could either be questioned over the phone or during in-person interviews.
5. Dr. Salama asked the complainant’s mother if the complainant would be interested in participating in a research project he was conducting on sexuality and sexual activity.
6. In October 2008, the complainant contacted Dr. Salama via email to inform him of her interest in participating in the research project. Dr. Salama advised her that he was conducting research on sexuality and sexual activity and that there were numerous other researchers and supervisors working on the project. The research would involve an

interview over the telephone and an interview conducted in person. In his description of the Study, Dr. Salama also indicated that the complainant would have to undergo a “full body exam”. This was not accurate. Dr. Salama meant to convey the need for various body measurements such as height and weight. The Study did not require that a physical examination be conducted. Dr. Salama also advised the complainant that she would be paid for her participation, and that transportation, accommodation and meal expenses would also be covered. It turned out that his understanding of what expenses could be paid was inaccurate.

7. One of Dr. Salama’s emails to the complainant states the following:

October 2008: “your face is really beautiful. A very nice pic. As I told you before we use a part of the body as if a fingerprint (your ID) for all candidates. you are the first female. I finished with 2 males. I just chose the foot when we were talking. we can change it.If you dont mind could you go to for a padecare and do some waxing on my expense and send me another pic...”

8. Dr. Salama states that he was simply joking about the pedicure, waxing, and using part of the body as a fingerprint.

9. The complainant was the only person to whom Dr. Salama administered the questionnaire. Although the email states that he had two other male subjects, no one else had actually been interviewed.

10. Dr. Salama discovered that the researchers would not in fact pay for the complainant to travel from Newfoundland to Toronto so he asked her questions about her sexuality over the telephone.

11. When the complainant asked Dr. Salama questions about the Study and the researchers involved, he did not answer them, advising that he got a message from the supervisor to stop temporarily “because they are going to change the plan” [another October 2008 e-mail, two days after e-mail message in paragraph 7]. Shortly thereafter, he terminated his involvement in the Study.

12. The College obtained an independent opinion from a Professor of Urology at an academic centre, who has conducted research both as a principal investigator and also has supervised, directed, advised and collaborated with other investigators. In his opinion, the problems occurring in the conduct of the project by Dr. Salama originate from various elements, including two that are set out below:

[i] [Dr. Salama's] initial approach to [the complainant] did not follow the protocol; he explains that he misunderstood the criteria for recruiting and inclusion into the study. His understanding of the financial compensation appear incomplete and the subsequent explanations contradictory. Statements made to the subject/ complainant were confusing and misleading. I recognize language barriers, however "the information conveyed is as important as the information itself" (The Belmont Report). In this regard, the information passed by Dr. S to [the complainant] was baffling and provided a great deal of latitude for misunderstanding ...

We may be dealing here simply with a naive physician painfully unaware of the most basic requirements for conduction of clinical research and making decisions, initiating procedures and subverting an already faulty protocol. This compounded by a long distance, deficient supervision. Regretfully, Dr. S failed to meet standard of practice for a physician conducting clinical research....

[ii] A research subject who was a friend of the investigator and who received incomplete information about the nature of the study. She was anxious to participate because of the monetary rewards and the possibility of a vacation tied to the study. Initially she appeared to be a willing, cooperative and enthusiastic subject. She provided very personal information on the touchy subject of her sexual preference and behaviour...

PART II - ADMISSION

13. Dr. Salama admits the facts specified in paragraphs 1 to 12 above and admits that he failed to maintain the standard of practice of a physician of the profession in the manners set out above.

FINDING

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts. Having regard to these facts, the Committee accepted Dr. Salama's admission and found that he committed an act of professional misconduct, in that he failed to maintain the standard of practice of the profession.

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 joint submission was to the effect that Dr. Salama should be reprimanded, have certain terms, conditions and limitations placed on his certificate of registration, and that he pay costs. The detailed particulars of the joint submission are set out below in the Order section of these reasons.

The Committee is aware that when presented with a joint submission as to penalty, it should accept the joint submission unless doing so would be contrary to the public interest and would bring the administration of justice into disrepute.

In accepting the joint submission, the Committee is aware that Dr. Salama has no previous disciplinary history. The complainant was not his patient at any time. Whatever transpired between the complainant and Dr. Salama, we were informed that no physical examination or touching occurred. As well, Dr. Salama stopped his involvement in the study soon after the events noted in the Agreed Statement of Facts occurred. Furthermore, Dr. Salama reimbursed the complainant for any expenses she incurred in the belief that she was to come to Ontario.

While these mitigating factors were taken into consideration by the Committee, we are aware that Dr. Salama was participating in a "study" that, as noted by the expert opinion, was shoddy in nature and in implementation. In his emails to the complainant, he lied about interviewing two previous male subjects. His wording and requests were unusual, and as the expert opinion noted, "provided a great deal of latitude for misunderstanding". While Dr. Salama's first language is not English, this does not excuse presenting to a

“research subject” such misleading and semi-salacious statements. We were presented with the possibility that Dr. Salama may have been naïve in his participation in the project and in his communications with the complainant. The expert report notes this possibility, but comments, “the information conveyed is as important as the information itself.”

We are presented with a physician who is, in the words of the College’s expert, “painfully unaware of the most basic requirements for conduction of clinical research and making decisions, initiating procedures and subverting an already faulty protocol.” In implementing the protocol from that position, Dr. Salama received very personal information of a sexual nature from the complainant that was unnecessarily intrusive.

We take note that, in accepting the allegation, Dr. Salama saved the complainant from having to travel from Newfoundland and having to testify to intimate details of her life.

The proposed penalty meets the penalty criteria. It addresses specific deterrence in prohibiting Dr. Salama from doing research, addresses rehabilitation by having him enrol in and successfully complete an ethics course, and protects the public by the implementation of these aspects of the penalty. The reprimand expresses the profession’s disapproval of the behavior and its expectation that members will uphold the standards of the profession.

ORDER

Therefore, the Committee accepted the joint submission as to penalty and costs and ordered and directed that:

1. The Registrar place the following terms, conditions and limitations on Dr. Salama’s certificate of registration:
 - (i) Dr. Salama shall not participate in any research studies or activities of any kind at any time; and

- (ii) Dr. Salama shall, at his own expense, participate in and successfully complete an educational program in medical ethics and informed consent organized and approved by the College.
- 2. Dr. Salama appear before the panel to be reprimanded.
- 3. Dr. Salama pay costs to the College in the amount of \$3,650 within thirty (30) days from the date of this Order.
- 4. The results of this proceeding be included in the register.

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