

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

College of Physicians and Surgeons of Ontario

College

- and -

Sonja Sophia Kustka

Member

NOTICE OF HEARING

On May 29, 2023 a panel of the Inquiries, Complaints and Reports Committee of the College referred specified allegations of Dr. Kustka's professional misconduct and/or incompetence to the Tribunal.

The specified allegation(s) are:

1. that Dr. Kustka has committed an act of professional misconduct:
 - a. under paragraph 1(1)30 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* ("O. Reg. 856/93") in that she failed to respond appropriately or within a reasonable time to a written inquiry from the College;
 - b. under paragraph 1(1)33 of O. Reg. 856/93, in that she 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
 - c. under paragraph 1(1)1 of O. Reg 856/93, in that the member has contravened a term, condition or limitation on her certificate of registration.

Further information about the allegations is contained in Schedule "A" to this notice of hearing.

The Tribunal will hold a hearing under sections 38 to 56 of the Health Professions Procedural Code (Code) and the *Statutory Powers Procedure Act*, on a date or dates to be set at a case management conference, to decide whether the member has committed an act or acts of professional misconduct and/or is incompetent.

The College will file this Notice with the Tribunal. The Tribunal will then set a date for the first case management conference and send it to the parties with more information about the Tribunal's process.

If the member or their representative does not attend the case management conference or the hearing, the Tribunal may proceed in the member's absence and the member is not entitled to any further notice in the proceeding.

If the Tribunal finds the member committed an act or acts of professional misconduct, it may make one or more of the following orders under subsections 51(2) of the Code.

- direct the Registrar to revoke the member's certificate of registration.
- direct the Registrar to suspend the member's certificate of registration for a specified period of time.
- direct the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time.
- require the member to appear before the Tribunal to be reprimanded.
- require the member to pay a fine of not more than \$35,000 to the Minister of Finance.
- if the act of professional misconduct was the sexual abuse of a patient, require the member to reimburse the College for funding provided for that patient under the program and/or require the member to post security acceptable to the College to guarantee this payment.

The Tribunal may, under subsection 53.1 of the Code, require the member to pay all or part of the College's costs and expenses.

The Tribunal's website (www.opsdt.ca) includes the Tribunal's Rules of Procedure, Practice Directions and guides to the process.

Date: 2023-05-29

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SCHEDULE "A"

1. On February 24, 2022, the Registrar of the College appointed investigators under s. 75(1)(a) of the Health Professions Procedural Code to investigate whether Dr. Kustka, in her in her general medicine practice and in her conduct, including her care and conduct in relation to the COVID-19 pandemic, her completion of medical exemptions from mask requirements and her prescribing of Ivermectin for COVID-19, has engaged in professional misconduct or is incompetent, has engaged in professional misconduct or is incompetent.

3. Commencing approximately March 2022, Dr. Kustka engaged in disgraceful, dishonourable or unprofessional conduct and/or failed to respond appropriately or within a reasonable period of time to a written inquiry from the College, in failing to co-operate with the College's investigations, including by failing to provide information, records and documents requested by College staff and refusing to permit College investigators to enter and/or inspect her practice location.

4. Dr. Kustka engaged in disgraceful, dishonourable or unprofessional conduct and/or contravened a term, condition or limitation on her certificate of registration by breaching the terms of an interim order made under section 25.4 of the Health Professions Procedural Code, dated May 2, 2022.

ADDITIONAL INFORMATION ABOUT THE ALLEGATIONS AGAINST THE MEMBER
WILL BE PROVIDED IN ADVANCE OF THE HEARING.