

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Nina Leah Desjardins, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of Patient A or Patient A's spouse referred to orally at the hearing or in the exhibits filed, under subsection 45(3) of the Health Professions Procedural Code (the Code), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, SO 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.

**DISCIPLINE COMMITTEE
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

Citation: *College of Physicians and Surgeons of Ontario v. Desjardins*,
2021 ONCPSD 34

Date: July 16, 2021

BETWEEN:

College of Physicians and Surgeons of Ontario

- and -

Dr. Nina Leah Desjardins

FINDING AND PENALTY REASONS

Heard: June 29, 2021, by videoconference

Panel:

Dr. Peeter Poldre (chair)
Dr. Paul Hendry
Dr. Veronica Mohr
Mr. Peter Pielsticker
Ms. Linda Robbins

Appearances:

Ms. Elisabeth Widner and Ms. Simmy Dhamrait-Sohi, for the College
Ms. Azin Samani and Ms. Keary Grace, for Dr. Desjardins
Mr. Gideon Forrest, Independent Legal Counsel to the Discipline Committee

Introduction

- [1] Dr. Desjardins, a psychiatrist, treated Patient A for long-standing anxiety and depression from July 2017 to February 2019. She communicated with Patient A using social media outside of regular appointments to discuss matters including conspiracy theories and distrust of psychiatry when Patient A was in a “paranoid” state. Patient A’s mental health deteriorated resulting in his admission to hospital.
- [2] Patient A’s wife filed complaints about Dr. Desjardins’ care of her husband to their local hospital and to the College. The hospital investigated the matter and filed a mandatory report about Dr. Desjardins’ conduct and capacity to the College. Both the College complaint and the hospital’s report were investigated in parallel by the Inquiries, Complaints and Reports Committee (ICRC) which then referred the matter to the Committee for adjudication.
- [3] Dr. Desjardins admits that she committed an act or omission that would be considered disgraceful, dishonourable or unprofessional and that she failed to maintain the standard of practice. The College withdrew the remaining allegation of misconduct contained in the Notice of Hearing.

Decision

- [4] We find that Dr. Desjardins committed an act or omission that would reasonably be regarded by members of the profession as disgraceful, dishonourable or unprofessional by violating physician/patient boundaries when she crossed boundaries with Patient A and had inappropriate communications with Patient A and his wife. We find that Dr. Desjardins failed to maintain the standard of practice in her care of Patient A. We order a reprimand, a suspension of 12 months, education, practice supervision and that she pay costs to the College.

Issues

- [5] Are Dr. Desjardins’ boundary breaches and communications with Patient A and the failure to address his wife’s concerns an act or omission that would reasonably be regarded by members as disgraceful, dishonourable or unprofessional as in paragraph 1(1)33 of O.Reg. 856/93?

[6] Did Dr. Desjardins' care of Patient A fall below the standard of practice as defined in paragraph 1(1)2 of O.Reg. 856/93?

[7] If so, what is the appropriate remedy for Dr. Desjardins' misconduct?

Analysis

Issue 1: Are Dr. Desjardins' boundary breaches and communications an act that would be regarded by the profession as disgraceful, dishonourable or unprofessional?

[8] We find that Dr. Desjardins' relationship and communications with Patient A were inappropriate and appeared to have substantially contributed to Patient A's florid manic state and related hospitalization.

[9] We are mindful that physicians **must** establish and maintain appropriate boundaries with their patients which includes their communications. This is especially true for psychiatrists managing patients in a heightened state of vulnerability due to their mental health. Physicians rely on appropriate communications to elicit information, establish trust and provide care. In addition, there is an expectation that physicians attempt to include relevant family members in patient care, especially when the patient is unable to provide adequate insights into their own situation as with some of those with mental health disorders.

[10] We considered the evidence provided in the Agreed Statement of Facts on Liability as submitted by the College and Dr. Desjardins.

Boundaries and Communications with Patient A

[11] During appointments, at some point Dr. Desjardins began to speak to Patient A about politics, current conspiracy theories, QAnon, reality vs different dimensions, "Morpheus" from the Matrix movie series, ascension, meditation and the "third eye." Dr. Desjardins provided Patient A with names of various Twitter accounts to follow associated with QAnon. Later they began to engage in several weeks of extensive exchanges using Twitter direct messaging. Patient A referred to Dr. Desjardins as his "guru", "mentor," "Master" and "muse." Dr. Desjardins also sent links to websites, videos and photographs.

- [12] Dr. Desjardins informed Patient A that “the most secure forensic facility in Canada” was run by “freemasons” which caused Patient A to distrust hospitals and other medical professionals because he believed that institutions were run by a secret society.
- [13] On February 17, 2019, after viewing a video that Dr. Desjardins sent to him of a psychic foretelling an explosion, Patient A messaged Dr. Desjardins about going “crazy” and thinking he was an alien. Dr. Desjardins responded by assuring him he was not going crazy, apologizing for sending the video and informing him that she had doubts about her continuing as a psychiatrist as “psychiatry is at its core rotten.” Dr. Desjardins’ notes recorded that she deemed him paranoid, yet she provided him with conspiracy information.
- [14] On February 18, 2019, Patient A stated “Maybe I should have killed myself a long time ago” to which Dr. Desjardins responded a day later but without any treatment advice. Further messaging from Patient A was met with silence until late February 20, 2019 when Dr. Desjardins suggested that if he wasn’t doing well, then she could try to see Patient A on a cancellation. He messaged her at 11:05 pm with “I’m fucking dying” to which Dr. Desjardins responded by “...think talking at the hospital is the best course of action.” She subsequently blocked Patient A from her Twitter.
- [15] Patient A became obsessed with Twitter, conspiracy theories that he had discussed with Dr. Desjardins and the belief that he was an alien. Patient A could not sleep, was disengaged from his wife and children and denied he had mental illness.
- [16] Patient A was hospitalized as an inpatient in the local mental health unit on February 21, 2019. The Chief of Psychiatry spoke with Dr. Desjardins and she denied having any more than a short exchange about conspiracy theories with Patient A.

Conclusion

- [17] We find that Dr. Desjardins crossed boundaries in the patient-physician relationship with a patient who was experiencing a mental health disorder and was in a particularly vulnerable state. Dr. Desjardins failed to provide limits on their interactions that ultimately led to Patient A to believe she was his “guru” and

“Master.” Given the circumstances, Dr. Desjardins’ communications with Patient A were inappropriate and she failed to recognize or respond to the decline in his mental health that was clearly documented in their social media direct messaging and placed him at increased risk. She was not transparent with her Chief of Staff in disclosing those communications.

Communications with Patient A’s Family

- [18] Patient A’s wife was concerned about her husband’s mental health. On August 20, 2018, Patient A and his wife attended an appointment with Dr. Desjardins. Patient A’s wife felt that Dr. Desjardins dismissed her concerns. Dr. Desjardins recommended that the wife send a note with Patient A if she had any future issues rather than attend appointments in the future.
- [19] Patient A informed Dr. Desjardins that his wife was “annoyed” with the abstract concepts they were sharing to which Dr. Desjardins replied, “others won’t understand,” “My role is to help others cross the bridge,, “I think I’m the bridge,” “for spouses who haven’t woke it’s hard” and “They will be anxious.”
- [20] On February 17, 2019, Patient A shared the psychic’s video with his wife. Patient A responded frantically to the video about a predicted explosion and wanted to inform the Canadian Security Intelligence Service about it on more than one occasion. In response, Patient A’s wife wanted to take him to hospital but Patient A declined because he felt that he was fine and had the support of Dr. Desjardins.
- [21] On February 22, 2019, after Patient A was hospitalized, Dr. Desjardins called Patient A’s wife. Dr. Desjardins denied knowing initially that it was Patient A she was communicating with on Twitter. Dr. Desjardins told Patient A’s wife that Patient A had sent her messages about “wanting to be with [her]” which had concerned Dr. Desjardins but she informed Patient A’s wife that “I just want you to know that I hadn’t read [those messages].”

Conclusion

- [22] We find that Dr. Desjardins did not communicate with Patient A’s family appropriately as would be expected of a psychiatrist when their patient exhibits irrational behaviour and, in addition to the lapses in boundaries and

communications with Patient A, we find that Dr. Desjardins 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.

Issue 2: Did Dr. Desjardins' treatment of Patient A meet the standard of practice of the profession?

[23] As a result of investigation of the complaint filed by Patient A's wife, the ICRC requested a practice assessment by an independent psychiatrist. The report dated May 2, 2020 was included as an attachment to the Agreed Statement of Facts on Liability.

[24] The psychiatrist's report indicated that Dr. Desjardins showed a lack of skill and judgement in her clinical care of Patient A and exposed him to harm by:

- a. failing to document evaluations of mania and psychosis despite presence of symptoms.
- b. not engaging with Patient A's wife for collateral assessment of her safety when he was talking about anger and verbal abuse towards her.
- c. sub-optimal prescribing of medications.
- d. failing to notify the Ministry of Transportation that a professional truck driver had cannabis dependence and stimulant abuse issues.
- e. engaging in an online relationship with the patient which promoted suspicion of conspiracy and need for paranoia in a patient who she deemed paranoid and had been evaluating for psychosis.

[25] There was no dispute with the expert psychiatrist's conclusions and, based on the evidence before us, we find that Dr. Desjardins' care of Patient A did not meet the standard of practice.

Issue 3: What is the appropriate remedy for Dr. Desjardins' misconduct?

Joint Submission on Penalty

[26] The parties provided a joint submission on penalty and costs. The question for us is whether acceptance of the joint submission would bring the administration of justice into disrepute or is not otherwise in the public interest. The parties proposed Dr. Desjardins receive a public reprimand, a 12-month suspension of her certificate of registration, comply with the College's Policy on Closing a Medical Practice, complete courses on professionalism and communications and on record keeping, attend treatment from a College approved therapist and undergo clinical supervision. They also agreed Dr. Desjardins would pay costs associated with a half-day hearing.

[27] When assessing whether the proposed penalty is appropriate, we considered protection of the public, maintaining the integrity of the profession, and maintaining public confidence in the College's ability to regulate the profession in the public interest. The penalty should also serve as a specific deterrent to the member and a general deterrent to the profession, as well as, if appropriate, an opportunity for the member's rehabilitation. Other principles considered include denunciation of the misconduct and proportionality.

[28] As we are aware of Dr. Desjardins' own health issues, we considered that any penalty should address her remediation.

Evidence on Penalty

[29] The parties presented an Agreed Statement of Facts on Penalty.

[30] Dr. Desjardins is currently in solo practice having voluntarily resigned her hospital privileges.

[31] Dr. Desjardins is under care of a psychiatrist, on referral from the Physician Health Program.

Aggravating factors

[32] In assessing the proposed penalty, we considered the following factors as aggravating:

- a. Dr. Desjardins shared conspiracy theories with a patient who she noted to be paranoid and psychotic which may have fueled his altered perceptions.
- b. she failed to consider Patient A's wife's concerns about his behaviour.
- c. she reinforced distrust in the profession and the treating facility.
- d. she failed to act appropriately when Patient A vocalized suicidal thoughts but instead blocked him from her Twitter feed.
- e. she did not tell the Chief of Staff about the extent of her communications with Patient A.
- f. she failed to report Patient A, a professional truck driver, to the Ministry of Transportation despite deeming him to have an ongoing cannabis dependence issue. This put both Patient A and the public at risk.
- g. she was not honest with Patient A's wife about her communications with him on Twitter.

Mitigating factors

[33] We considered the following factors as mitigating:

- a. Dr. Desjardins admitted to the allegations sparing Patient A and family from having to testify and saving College expense of a longer hearing.
- b. she recognized her own health issues and self-referred to the Physician Health Program.
- c. she engaged in psychiatric treatment in May 2019 and is following treatment.
- d. she completed the PROBE ethics and boundaries course voluntarily.
- e. she has demonstrated insight by agreeing to continue therapy for two years.

[34] In considering the appropriate penalty, we reviewed three cases understanding that no two cases are alike.

[35] In *CPSO v. Roche*, 2017 ONCPSD 13, *CPSO v Shapiro*, 2020 ONCPSD 44 and *CPSO v. Ateyah*, 2021 ONCPSD 29, physicians also crossed boundaries with patients in different ways, but none resulted in any sexual abuse. There were no allegations of sexual boundary violations in this case either but, otherwise, the facts in this proceeding are so different from the facts in those cases they were not of great assistance to us. However, the range of suspension proposed in this case is within the range present in these three cases. We find the proposed length of this suspension to be within these limits.

Conclusion

[36] We find that Dr. Desjardins crossed boundaries with Patient A and her communications with him were inappropriate and likely exacerbated his mental condition resulting in his hospitalization. As a psychiatrist, Dr. Desjardins should have recognized that her relationship and the content and frequency of her communications could have a serious impact on Patient A's mental health condition. In addition, Dr. Desjardins' psychiatric care was suboptimal placing the patient and potentially the public at unacceptable risk.

[37] We ordered and directed:

1. Dr. Desjardins to attend before the panel to be reprimanded.
2. The Registrar to suspend Dr. Desjardins' certificate of registration for 12 months commencing June 30, 2021 at 12:01 am.
3. The Registrar to place the following terms, conditions and limitations on Dr. Desjardins' certificate of registration effective immediately:
 - a. Dr. Desjardins shall comply with the College Policy "[Closing a Medical Practice](#)".
 - b. Dr. Desjardins shall complete the Saegis course on professionalism and communications (or other similar course approved by the College) within six (6) months from the date of the

Order, at her own expense, by receiving a passing evaluation or grade, without any condition or qualification. Dr. Desjardins will provide proof to the College of her completion, including proof of registration and attendance and participant assessment reports, within one (1) month of completing it.

- c. Dr. Desjardins shall provide proof of satisfactory completion of the University of Toronto Medical Record-Keeping Course upon the earlier of: (a) within six (6) months of the date of the Order or if not available within six (6) months, at the earliest possible date that it becomes available; and (b) within thirty (30) days of receipt of evidence of Dr. Desjardin's completion of the Course from the University of Toronto.
- d. Beginning from the date of the Order, Dr. Desjardins shall attend, at minimum, one (1) meeting per month with a psychiatrist or psychologist who is acceptable to the College ("Treating Therapist"), who will sign an undertaking in a form acceptable to the College. The meetings will continue for as long as the Treating Therapist deems necessary, but in any event not less than two (2) years and subject to College approval before discontinuing such treatment. For a period of two (2) years, or such longer period as may be required by the terms of the Order, Dr. Desjardins' Treating Therapist will provide quarterly reports to the College as set out in the Treating Therapist's undertaking to the College.
- e. Dr. Desjardins shall consent to the disclosure by her Treating Therapist to the College, and by the College to her Treating Therapist, of all information the Treating Therapist or the College deems necessary or desirable in order to fulfill the Treating Therapist's undertaking and Dr. Desjardin's compliance with the Order.

Clinical Supervision

- f. Prior to resuming practice following the suspension of her certificate of registration described above in paragraph 3, Dr. Desjardins shall retain, at her own expense, a College-approved clinical supervisor, who will sign an undertaking in the form attached hereto as Schedule “A” (the “Clinical Supervisor”).
- g. For a period of twelve (12) months commencing on the date Dr. Desjardins resumes practice following the suspension of her certificate of registration described above in paragraph 3, Dr. Desjardins may practice only on terms of the Clinical Supervision set out herein and in Schedule “A”.
- h. Clinical Supervision of Dr. Desjardins practice shall contain the following elements:
 - i. An initial meeting with Dr. Desjardins to discuss the objectives for the Clinical Supervision and practice improvement recommendations.
 - ii. The Clinical Supervisor will meet with Dr. Desjardins once every month after the initial meeting. Meetings will take place at Dr. Desjardins’ practice location, or another location approved by the College.
 - iii. The Clinical Supervisor will review at least fifteen (15) of Dr. Desjardins’ patient charts at every meeting, selected at the sole discretion of the Clinical Supervisor.
 - iv. The Clinical Supervisor will keep a log of all patient charts reviewed along with patient identifiers.
 - v. The Clinical Supervisor will discuss with Dr. Desjardins any concerns arising from chart reviews.

- vi. The Clinical Supervisor will observe at minimum one (1) group or individual therapy session at every meeting, to be selected at the sole discretion of the Clinical Supervisor, ensuring that both group and individual therapy sessions are observed over the course of the Clinical Supervision.
- vii. The Clinical Supervisor will make recommendations to Dr. Desjardins for practice improvements and ongoing professional development and inquire into Dr. Desjardins' compliance with his/her recommendations.
- viii. The Clinical Supervisor will perform any other duties, such as reviewing other documents or conducting interviews with staff or colleagues, that the Clinical Supervisor deems necessary to Dr. Desjardins' clinical supervision.
- ix. The Clinical Supervisor will provide a report to the College, at a minimum of once every (3) months, or more frequently if the Clinical Supervisor has concerns about Dr. Desjardins' standard of practice or conduct. Such reports shall be in reasonable detail and shall contain all information the Clinical Supervisor believes might assist the College in evaluating Dr. Desjardins' standard of practice and conduct, as well as Dr. Desjardins' participation in and compliance with the requirements set out in the Order of the Discipline Committee.
- i. Dr. Desjardins shall abide by the recommendations of the Clinical Supervisor.
- j. If a Clinical Supervisor who has given an undertaking as set out in Schedule "A" to the Order is unable or unwilling to continue to fulfill its terms, Dr. Desjardins shall, within twenty (20) days of receiving notice of same, obtain an executed undertaking in the same form from a person who is acceptable to the College and ensure that it is delivered to the College within that time.

- k. If Dr. Desjardins is unable to obtain a Clinical Supervisor in accordance with the Order, she shall cease to practice until such time as she has done so.
- l. Dr. Desjardins shall consent to the disclosure by her Clinical Supervisor to the College, and by the College to her Clinical Supervisor, of all information the Clinical Supervisor or the College deems necessary or desirable in order to fulfill the Clinical Supervisor's undertaking and Dr. Desjardin's compliance with the Order; and
- m. Dr. Desjardins shall inform the College of each and every location where she practices including but not limited to hospitals, clinics and offices, in any jurisdiction (collectively her "Practice Location(s)"), within fifteen (15) days of the date she resumes practice following the suspension of her certificate of registration described above in paragraph 3, and shall inform the College of any new Practice Locations within fifteen (15) days of commencing practice at that location, for the purposes of monitoring her compliance with the Order.

Re-Assessment

- n. Approximately six (6) months after the completion of the period of clinical supervision as set out as above, Dr. Desjardins shall, at her own expense, undergo a re-assessment by a College-appointed assessor (the "Assessor(s)"). The re-assessment may include chart reviews and direct observation of individual and group therapy sessions, interview with Dr. Desjardins, her colleagues and co-workers, feedback from patients and any other tools deemed necessary by the College. The Assessor(s) shall submit a written report on the results of the re-assessment to the College; and
- o. Dr. Desjardins shall cooperate fully with the re-assessment and with the Assessor(s). Dr. Desjardins shall consent to the disclosure to the Assessor(s) of the reports of the Clinical Supervisor arising

from the supervision and shall consent to the sharing of all information between the Clinical Supervisor, the Assessor(s) and the College, as the College deems necessary or desirable.

4. Dr. Desjardins to pay the College costs in the amount of \$6,000 by August 29, 2021.

[38] At the conclusion of the hearing, Dr. Desjardins waived her right to an appeal under subsection 70(1) of the Code and we administered the public reprimand by videoconference.

In the matter of:

College of Physicians and Surgeons of Ontario

- and -

Nina Leah Desjardins

Reprimand delivered by the Discipline Committee

by videoconference on Tuesday, June 29, 2021

*****Not an official transcript****

Dr. Desjardins,

You have admitted to professional misconduct that encompassed failure to maintain the standard of practice of Psychiatry as well as acts in the practice of your profession that are disgraceful, dishonourable AND unprofessional.

We are challenged in this reprimand to provide a sense of priority to your misconduct, for the various matters of concern all intersected to pose serious risk to the welfare of your vulnerable patient.

The human mind is fragile when it is unwell.

Patients with psychiatric problems deserve careful evaluation and management, supported by documentation, all of which was lacking in your lengthy care of the patient.

We were appalled by your serious boundary violations involving completely unprofessional social media exchanges and the sharing of your personal views and interests, the content of which was detrimental to your patient because of his paranoia.

Your failure to notify the MTO regarding the impairment of your long-haul trucker patient clearly put the public at risk.

When your patient was suicidal, you abandoned him.

We were dismayed by your untruthful comments to your chief when you were confronted about your espousal of conspiracy theories to the patient.

You also harmed the patient's wife, who was desperate to assist in her husband's care.

We expect you to focus on your own health and the utilize the courses, supervision and assessments to allow you to resume your role as a psychiatrist.

End.