

Indexed as: Pratt, K. J. (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. KATHLEEN JOYCE PRATT

PANEL MEMBERS:

**S. DAVIS (Chair)
DR. M. GABEL
DR. P. GARFINKEL
DR. E. ATTIA (Ph.D.)
DR. F. SLIWIN**

Hearing Date: October 3, 2013
Decision Date: October 3, 2013
Release of Written Reasons: November 6, 2013

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 3, 2013. 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. Kathleen Joyce Pratt 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 she 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. Pratt admitted the allegation in the Notice of Hearing, that she 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.

FACTS AND EVIDENCE

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

PART I – FACTS

Background

1. Dr. Kathleen Pratt is a general surgeon who has privileges at Bluewater Health hospital in Sarnia, Ontario (formerly the Sarnia General Hospital). She graduated from

the University of Calgary in 1990 and has had an independent practice certificate in Ontario since 1997.

Dr. Pratt Submits Samples for MRSA Testing Under the Name of her Employee

2. In 2006, there was an outbreak of infections of an antibiotic-resistant bacterium, Methicillin Resistant Staphylococcus Aureus (“MRSA”), in the Sarnia General Hospital. Dr. Pratt was the attending physician for some of the patients who developed infections, and as a result, hospital officials suggested that Dr. Pratt be tested for MRSA to see if she had become colonized. The officials suggested she could have this testing done anonymously.

3. On December 31, 2006, Dr. Pratt attended at the hospital lab to have her swabs tested anonymously for MRSA. However, she was told by a clerk that she could not be tested anonymously. She proceeded to submit her own samples under the name of an employee in her office, with Dr. Pratt’s name as the submitting physician. The employee did not know Dr. Pratt was using her name for this purpose and had not given Dr. Pratt her consent to do so. It appears that the lab clerk obtained the employee’s OHIP number from hospital files and added that to the records.

4. There were swabs of the ear, nose and rectum; the ear and nose swabs were reported as being MRSA positive. A copy of the lab results under the name of the employee showing the positive MRSA result is attached at Tab 1 [to the Agreed Statement of Facts and Admission].

Dr. Pratt Treats Herself in Relation to her MRSA and Continues to Work at the Hospital

5. After receiving the test results, Dr. Pratt wrote prescriptions for herself to treat the MRSA colonization, which she filled at a Shoppers Drug Mart in Sarnia. The records show prescriptions for antibiotics written by Dr. Pratt for herself (Sulfameth/Trimeth DS (Apo-Sulfatrim DS) and Rifampin (Rifadin)) on December 31, 2006, and again on January 11, 2007.

6. Dr. Pratt returned to her regular work at the hospital in early 2007 before completing her treatment for MRSA colonization, without seeking treatment from any other health care professional in relation to the MRSA colonization, and without confirming that the treatment she had prescribed for herself was effective.
7. The hospital did not ask for any information regarding Dr. Pratt's treating physician or her treatment regime and did not ask that she satisfy herself or demonstrate to the hospital that she was clear of MRSA colonization before returning to work.
8. There is no evidence that any patients were infected with MRSA as a result of Dr. Pratt being colonized with MRSA.

The Employee Discovers a Test was Submitted in her Name

9. As part of the employee's duties in Dr. Pratt's office, she sorted the mail. In early 2007, she saw her name on a positive MRSA report.
10. When she saw these results, the employee asked Dr. Pratt about them as she had not had MRSA swabs done, and Dr. Pratt was not her family doctor. Dr. Pratt explained that she had tested herself for MRSA using the employee's name because she wanted to maintain her anonymity.

Dr. Pratt Fails to Take Timely Steps to Correct her Employee's Health Record

11. Dr. Pratt did not inform the hospital that she had used her former employee's identity to submit her own samples, and took no steps to correct her former employee's health record until 2011, after she learned that her then former employee had complained to the College. At that time, Dr. Pratt contacted the hospital to see if the MRSA test results could be removed from her former employee's health record.

Dr. Pratt Prescribes Medications for Herself Repeatedly

12. Prescription records for Dr. Pratt obtained by the College disclose that in addition to prescribing herself antibiotics for MRSA, Dr. Pratt also prescribed other medications for herself between 2006 and 2012, including the following:

- Apo-carbamazepine (an anticonvulsant);
- Ciprofloxacin (an antibiotic);
- Ciprodex (an antibiotic);
- Sodium picosulphate/magnesium oxide;
- Lorazepam (benzodiazepine);
- Furosemide (a diuretic);
- Estraderm (hormone therapy);
- Estalis (hormone therapy);
- Brevicon (an oral contraceptive); and
- Stieva-A cream.

Copies of the pharmacy printouts for these prescriptions are attached at Tab 2 [to the Agreed Statement of Facts and Admission].

13. The volume, frequency and nature of Dr. Pratt's treatment for herself violates the College's policy on "Treating Self and Family Members", which prohibits self-treatment "except for minor conditions or emergency situations where there is no other qualified health care professional readily available." A copy of the "Treating Self and Family Members" Policy of the College is attached at Tab 3 [to the Agreed Statement of Facts and Admission].

Steps Taken by Dr. Pratt After Being Notified of the College Investigation

14. Upon being notified of the complaint of her former employee, Dr. Pratt admitted that she had used her former employee's name to submit her own samples for testing for MRSA. She said she did so in the heat of the moment when she realized she was not able to have anonymous testing. She said she apologized to her former employee at the time the employee asked her about the test results, and continues to acknowledge her error. Dr. Pratt also acknowledged that she prescribed treatment for herself for the MRSA colonization and that she had prescribed for herself on other occasions for very minor conditions.

15. Dr. Pratt has also taken the course “Understanding Boundaries: Managing the Risks Inherent in the Doctor-Patient Relationship” on March 22 and 23, 2013, and the course “Medical Record Keeping Skill Development” on April 12, 2013. She has also attended educational sessions relevant to surgical site infections and ethics.

PART II – ADMISSION

16. Dr. Pratt admits the facts set out in paragraphs 1 - 15 above, and specifically admits that:

- (a) she submitted swabs from herself for testing for MRSA and disguised them under the name and identity of an employee without the knowledge and/or consent of that individual;
- (b) after learning she was colonized with MRSA, she treated herself for the MRSA and returned to her regular duties as a surgeon at the hospital without seeking medical care from any other physician and without confirming she was no longer colonized with MRSA;
- (c) she failed to take reasonable and timely steps to ensure the accuracy of the health record of the staff member under whose name she had submitted for testing; and
- (d) she prescribed for herself regularly contrary to the College’s policies.

17. Dr. Pratt admits that the conduct described above constitutes acts or omissions relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

FINDING

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts and Admission. Having regard to these facts, the Committee accepted Dr. Pratt’s admission and found that she committed an act of professional misconduct, in that she 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.

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 Committee is aware that a joint submission should be accepted by the panel unless to do so would be contrary to the public interest and would bring the administration of justice into disrepute.

The Committee considered the aggravating and mitigating factors in this case. Mitigating factors include the fact that Dr. Pratt had no previous discipline history. She admitted and took responsibility for her actions, thus saving the College the cost of a fully contested hearing. Dr. Pratt also took remedial steps by taking the boundary and record keeping courses, as well as continued medical education for surgical site infections.

A further mitigating factor is that although Dr. Pratt did expose people to risk, there is no evidence of harm to patients or to the employee. As well, the hospital was aware that Dr. Pratt was at risk for MRSA. The hospital requested that she be tested and suggested that testing be done anonymously. The hospital did not ensure that Dr. Pratt was tested and treated, nor did it ensure that she was clear of MRSA prior to allowing her to operate. The Committee did consider the foregoing circumstances as somewhat mitigating in nature, although direct responsibility for her actions rested with Dr. Pratt.

The Committee also considered as a mitigating factor that apart from the medication self-prescribed for MRSA, the medications that were self-prescribed were not significant medications.

Aggravating factors included the fact that Dr. Pratt placed her self-interest above that of her patients and others. She self-prescribed treatment for MRSA and returned to work prior to ensuring that she was no longer colonized with the organism, thus violating the fundamental tenet of doctors by not putting patients' well-being first. As well, Dr. Pratt

used another person's name, that of her employee, to submit her lab samples. This was obviously improper and was an abuse of the trust of an employee. Further, she took no steps to correct the employee's health record until after the employee confronted her. Lastly, Dr. Pratt violated the College policy by prescribing for herself routinely and repeatedly.

The Committee is not bound by decisions of other panels of the Discipline Committee in other cases, although it is desirable that different panels of the Discipline Committee treats similar cases in a similar manner. The Committee considered the penalty given in one other discipline case (*CPSO v. Dr. Ian Metcalfe*) which had some similarities to the case before the Committee, in that it involved falsifying medical records. The facts in the case of Dr. Pratt appear to be unique. The Committee was of the view that the joint submission as to penalty proposed in this case was consistent with the penalty awarded in the *Metcalfe* case and amounts to a fair resolution of the case.

Lastly, the Committee considered that the proposed penalty would uphold the relevant penalty principles of public protection, specific and general deterrence, rehabilitation of the member and maintaining public confidence in self-regulation. The Committee considered that the penalty would amount to a deterrent, both for Dr. Pratt and for the members of the College. Public safety is paramount, and physicians must promote infectious disease control. Although no harm came to patients in this case, the potential for harm was high. Further, members of the profession must act in an honest and ethical way at all times.

The Committee further determined that this was an appropriate case to order costs at the tariff rate for a one day hearing.

ORDER

Therefore, having stated its finding in paragraph 1 of its written order of October 3, 2013, on the matter of penalty and costs, the Committee ordered and directed that:

1. the Registrar suspend Dr. Pratt's certificate of registration for a period of three (3) months commencing 12:01 a.m. October 4, 2013.
2. Dr. Pratt appear before the panel to be reprimanded.
3. Dr. Pratt pay to the College costs in the amount of \$4,460 within 60 days of the date of this Order.

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