

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

B E T W E E N:

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

FRANCIS KAI-TAK LEE

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE OF THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO has referred to the Discipline Committee of the College the allegation that Dr. Francis Kai-Tak Lee (“Dr. Lee”), a member of the College, has 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;
2. 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; and
3. 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.

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE OF THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO has also referred to the Discipline Committee of the College the allegation that Dr. Lee is incompetent as defined by subsection 52(1) of the Health Professions Procedural Code (the “Code”), which is Schedule 2 to the *Regulated Health Professions Act, 1991*.

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

A PANEL OF THE DISCIPLINE COMMITTEE WILL HOLD A HEARING under the authority of sections 38 to 56 of the Health Professions Procedural Code for the purposes of deciding whether Dr. Lee has committed an act or acts of professional misconduct. The hearing will be held at the College of Physicians and Surgeons of Ontario, 80 College Street, Toronto, Ontario or such other venue as the College may advise, on a date to be determined after consultation between College counsel and Dr. Lee or his counsel, and fixed by the Hearings Office.

IF DR. LEE DOES NOT ATTEND AT THE HEARING, the discipline panel may proceed in his absence and he will not be entitled to any further notice in the proceeding.

IF THE PANEL FINDS that Dr. Lee has committed an act or acts of professional misconduct the panel may make one or more of the following orders authorized under subsections 51(2), 51(5) and 52(2) of the Code.

Subsection 51(2) of the Code

(2) If a panel finds a member has committed an act of professional misconduct, it may make an order doing any one or more of the following:

- 1. Directing the Registrar to revoke the member’s certificate of registration.*
- 2. Directing the Registrar to suspend the member’s certificate of registration for a specified period of time.*
- 3. Directing the Registrar to impose specified terms, conditions and limitations on the member’s certificate of registration for a specified or indefinite period of time.*
- 4. Requiring the member to appear before the panel to be reprimanded.*

5. *Requiring the member to pay a fine of not more than \$35,000 to the Minister of Finance.*
- 5.1 *If the act of professional misconduct was the sexual abuse of a patient, requiring the member to reimburse the College for funding provided for that patient under the program required under section 85.7.*
- 5.2 *If the panel makes an order under paragraph 5.1, requiring the member to post security acceptable to the College to guarantee the payment of any amounts the member may be required to reimburse under the order under paragraph 5.1. 1991, c. 18, Sched. 2, s. 51 (2); 1993, c. 37, s. 14 (2).*

Subsection 51(5) of the Code

(5) If a panel finds member has committed an act of professional misconduct by sexually abusing a patient, the panel shall do the following in addition to anything else the panel may do under subsection (2):

1. *Reprimand the member.*
2. *Revoke the member's certificate of registration if the sexual abuse considered of, or included, any of the following,*
 - i. *sexual intercourse,*
 - ii. *genital to genital, genital to anal, oral to genital, or oral to anal contact,*
 - iii. *masturbation of the member by, or in the presence of, the patient,*
 - iv. *masturbation of the patient by the member,*
 - v. *encouragement of the patient by the member to masturbate in the presence of the member.*

Subsection 52(2) of the Code

(2) If a panel finds a member is incompetent, it may make an order doing any one or more of the following:

1. *Directing the Registrar to revoke the member's certificate of registration.*
2. *Directing the Registrar to suspend the member's certificate of registration.*
3. *Directing the Registrar to impose specified terms, conditions and limitations of the member's certificate of registration for a specified period of time or indefinite period of time.*

THE DISCIPLINE PANEL MAY, under subsection 53.1 of the Code, make an order requiring Dr. Lee to pay all or part of the College's costs and expenses.

THE COLLEGE INTENDS TO INTRODUCE as business records, under section 35 of the *Evidence Act*, any writings or records that were made in the usual and ordinary course of

business. Without limiting the generality of the foregoing, the College intends to introduce as business records the medical and hospital charts related to the patient care that is the subject of the allegations.

Dr. Lee is entitled to disclosure of the evidence against him and of other information in the College's knowledge or possession. To obtain disclosure, Dr. Lee or his counsel or agent should contact the Legal Office of the College of Physicians and Surgeons, 80 College Street, Toronto, Ontario, M5G 2E2, telephone (416) 967-2600 or 1-800-268-7096.

“Signature on Original”

Dated: September 7, 2016

Chair, Inquiries, Complaints and Reports Committee

TO: Dr. Francis Kai-Tak Lee
1110 Sheppard Avenue E.
Suite 208
North York, ON M2K 2W2

SCHEDULE “A”

1. Dr. Lee is a psychiatrist.
2. Patient A, whose identity has been disclosed under separate cover, was Dr. Lee’s patient.
3. Dr. Lee engaged in disgraceful, dishonourable and unprofessional conduct and/or sexual abuse in respect of Patient A by, among other things:
 - (a) engaging in a personal relationship with Patient A during their doctor-patient relationship;
 - (b) making inappropriate personal disclosures to Patient A; and
 - (c) engaging in sexual actions involving Patient A during the doctor-patient relationship.
4. Dr. Lee engaged in disgraceful, dishonourable and unprofessional conduct in respect of Patient A by, among other things:
 - (a) proposing to terminate the doctor-patient relationship so that he could have a personal relationship with Patient A, then failing to terminate the doctor-patient relationship and failing to refer Patient A to another physician;
 - (b) engaging in sexual actions involving Patient A too soon after the doctor-patient relationship ended;
 - (c) interacting with the College in a dishonest and misleading way during the College’s investigation, and saying things about the patient that he knew or ought to have known were untrue;
 - (d) engaging in the behaviour set out in paragraph (c) above in order to influence the College investigation;
 - (e) establishing an e-mail account in Patient A’s name and sending emails designed to have the College reach an unfavourable view of Patient A, and view her as unstable and unreliable;

- (f) failing to maintain and/or deleting patient records;
 - (g) including statements in a version of the records that he claimed were “transcribed” verbatim, that were not in the original version, and providing that to the College in the course of its investigation;
 - (h) engaging the behaviour set out in paragraph (g) above in an attempt to paint Patient A in a bad or unreliable light (that is, the changes to the chart included inaccurate diagnoses and impressions of Patient A); and
 - (i) inappropriately prescribing medications for himself, including by writing prescription(s) for Patient A, instructing Patient A to fill the prescription(s), and taking the medication from Patient A.
5. Dr. Lee failed to maintain the standard of practice of the profession and was incompetent in his care and treatment of Patient A.

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