

## **ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL**

**Citation:** *College of Physicians and Surgeons of Ontario v. Horri*, 2022 ONPSDT 2

**Date:** January 14, 2022

**Tribunal File No.:** 21-009

### **BETWEEN:**

College of Physicians and Surgeons of Ontario

- and -

Dr. Mehdi Horri

### **FINDING AND PENALTY REASONS**

**Heard:** December 7, 2021, by videoconference

### **Panel:**

Ms. Jennifer Scott (chair)

Ms. Lucy Becker

Mr. Jose Cordeiro

Dr. Ian Preyra

Dr. James Watters

### **Appearances:**

Mr. Rob Sidhu, for the College

Mr. Graham Ragan and Ms. Barbara Prikrylova, for Dr. Horri

### **RESTRICTION ON PUBLICATION**

The Tribunal ordered, under ss. 45-47 of the Health Professions Procedural Code, that no one may publish or broadcast the names or any information that would identify patients referred to during the Tribunal hearing or in any documents filed with the Tribunal. There may be significant fines for breaching this order.

## Introduction

- [1] Dr. Horri is a member of the Colleges of Physicians and Surgeons of both Saskatchewan (the CPSS) and Ontario (the College). The CPSS found Dr. Horri had engaged in professional misconduct there. It reported its finding to the College. Under s. 51(1)(b) of the Health Professions Procedural Code (Code), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, SO 1991, c. 18, a panel of this Tribunal shall find misconduct if a member has been found by a health profession in another jurisdiction to have committed acts of misconduct that would also constitute misconduct in Ontario. The College alleges that is the case here.
- [2] During the hearing, the parties provided an agreed statement of facts on liability. Dr. Horri accepts that the governing body of a health profession in another jurisdiction has found that he committed misconduct, and he admits that this misconduct would be an act of professional misconduct in Ontario.
- [3] Dr. Horri and the College jointly submitted the penalty should be a reprimand, taking into account that on December 1, 2021, Dr. Horri signed an undertaking not to practise medicine in Ontario unless certain conditions are met. The parties also agreed that Dr. Horri should be ordered to pay costs of the hearing to the College of \$6,000. We found professional misconduct and accepted the joint submission on penalty and costs at the hearing. These are our reasons for that decision.

## CPSS

- [4] The CPSS found Dr. Horri had engaged in unbecoming, improper, unprofessional or discreditable conduct in his treatment of several patients between April and June 2017, including:
- a. improper administration of medications;
  - b. not appropriately communicating treatment to paramedics responsible for transferring a patient from Dr. Horri's facility;
  - c. not following hospital protocols and/or specialist advice when performing procedures in hospital;

- d. exhibiting anger to nursing staff and implying that Dr. Horri would contact the nursing regulatory body;
- e. providing procedures that were not within the standard of practice of the profession; and
- f. failing to follow the recommendations of pharmacists and to record reasons for not following the recommendations.

[5] On the joint submission of the parties, the CPSS ordered a four-month suspension, reprimand and costs.

### **Finding**

[6] We find Dr. Horri has committed professional misconduct under s. 51(1)(b) of the Code.

### **Penalty**

#### The Test on Joint Submissions

[7] A joint submission on penalty will be rejected only where it is contrary to the public interest in a way that brings the administration of justice into disrepute: see *R. v. Anthony-Cook*, 2016 SCC 43 at para. 34 and *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303 at para. 9.

[8] It is not our role on a joint submission to decide whether we agree with the proposed penalty or whether it is a penalty that we would order following a contested hearing and a finding of misconduct. In other words, it is not our role to decide the appropriateness or fitness of the penalty by applying the penalty principles in the first instance.

[9] The question before the Tribunal is whether implementing the proposed penalty would be contrary to the public interest because it fails to protect the public and impairs the ability of the College to regulate the profession of medicine and govern physicians.

[10] In deciding whether the proposed penalty maintains public confidence in the College's ability to regulate the profession, the Tribunal must consider the penalty

in the circumstances of the member, the circumstances of the member's misconduct and the range of penalties in the Tribunal's caselaw for similar misconduct.

- [11] If the proposed penalty violates the public interest, the administration of justice is brought into disrepute. In the professional regulation context, this means the proper functioning of the College's professional discipline system has broken down.

#### Application of the Test

- [12] The proposed penalty is a reprimand. It, together with Dr. Horri's undertaking, protects the public and demonstrates the ability of the College to regulate the practice of medicine and govern physicians. Dr. Horri is not practising in Ontario and has undertaken not to return to the practice of medicine in Ontario unless:
- a. he has provided a minimum of 45 days' notice to the College of his intention to return to the practice of medicine in Ontario;
  - b. he is participating in a program of continuing professional development that meets the requirements of the Royal College of Physicians and Surgeons of Canada, the College of Family Physicians of Canada or an organization approved by the College; and
  - c. the College approves his return to the practice of medicine.
- [13] Dr. Horri acknowledges in his undertaking that the Inquiries, Complaints and Reports Committee can place terms on his certificate of registration, require that he engage in a remediation plan approved by the College or request that he have an appropriate assessment and/or monitoring agreement with the College.
- [14] The parties rely on two cases in support of this penalty: *College of Physicians and Surgeons of Ontario v. Buckley*, 2012 ONCPSD 31 and *College of Physicians and Surgeons of Ontario v. Blicher*, 2002 ONCPSD 54. In *Buckley*, the physician committed acts of misconduct in the United States arising from her online prescribing practices. Dr. Buckley's licence was revoked by the New York State Board. In *Blicher*, the physician committed misconduct in relation to, among other things, his prescribing practices, record-keeping and billing practices. Dr. Blicher's

licence was suspended by the Comité de Discipline (Quebec Discipline Committee) for five months.

- [15] The Discipline Committee made findings of professional misconduct and reprimands were ordered in both cases. Additional training was also ordered in *Buckley*. In neither case did the panel impose an additional suspension in Ontario.
- [16] While the proposed penalty is in line with these cases, there is one significant difference here. Unlike those physicians, Dr. Horri has a disciplinary history in Ontario.
- [17] In 2016, the Discipline Committee found Dr. Horri had engaged in professional misconduct when he had a sexual relationship with a patient shortly after the termination of the doctor-patient relationship. In 2017, the Committee released its penalty decision and revoked Dr. Horri's licence. That order was overturned on appeal by the Divisional Court and the issue of penalty was remitted back to the Committee. The Committee re-heard the matter and issued a suspension of 12 months: see *College of Physicians and Surgeons of Ontario v. Horri*, 2019 ONCPSD 15.
- [18] While Dr. Horri's disciplinary history in Ontario is concerning to us, we recognize that our role is not to determine the appropriateness of the penalty in this matter. Our role is to decide whether the proposed penalty brings the administration of justice into disrepute having regard to the circumstances of Dr. Horri, the circumstances of his misconduct and the Tribunal's caselaw.
- [19] The proposed penalty does not bring the administration of justice into disrepute. The reprimand is a strong denunciation of Dr. Horri's conduct, and the undertaking ensures that he will not return to the practice of medicine in Ontario unless stringent conditions are met. The proposed penalty together with the undertaking protect the public and affirm public confidence in the ability of the College to regulate the profession. For these reasons, we accept the joint submission on penalty.

## **Order**

- [20] At the conclusion of the hearing, we ordered:

- a. Dr. Horri attend before the panel to be reprimanded.
- b. Dr. Horri pay costs to the College in the amount of \$6,000 by January 7, 2022.

[21] Dr. Horri waived his right of appeal at the hearing and the panel delivered the reprimand.

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College of Physicians and Surgeons of Ontario

- and -

Dr. Mehdi Horri

**The Tribunal delivered the following Reprimand**  
by videoconference on Tuesday, December 7, 2021.

**\*\*\*NOT AN OFFICIAL TRANSCRIPT\*\*\***

Dr. Horri,

We are deeply disturbed by your egregious misconduct in Saskatchewan where, in multiple instances, you engaged in unbecoming, improper, unprofessional or discreditable conduct. You repeatedly demonstrated a lack of medical expertise and poor clinical judgement and contravened accepted medical standards. You showed remarkably poor judgement and a serious lack of respect in your interactions with professional colleagues.

Our patients and the public expect that physicians will act with competence, integrity and in their patients' best interest. You have grossly violated that trust. Your actions exposed your patients to serious risks of harm or injury and have damaged the confidence of the public in the integrity of the profession. We are especially concerned at the breadth of your misconduct and that you have a significant history of serious misconduct in a relatively short period of time.

Dr. Horri, your actions were extremely serious and are unacceptable to the public and the profession. We hope that you have gained an understanding of the deficiencies in your care and conduct and will apply yourself to rectifying them. We are reassured that you will not be permitted to practice in Ontario without appropriate oversight to ensure that the public is properly protected. We trust that you have learned from this disciplinary proceeding and that the penalty imposed will deter you from such misconduct in the future.