

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Citation: *College of Physicians and Surgeons of Ontario v. Nahvi*, 2024 ONPSDT 31

Date: December 13, 2024

Tribunal File No.: 24-014

BETWEEN:

College of Physicians and Surgeons of Ontario

College

- and -

Shahab Nahvi

Registrant

FINDING AND PENALTY REASONS

Heard: November 15, 2024, by videoconference

Panel:

Raj Anand (panel chair)
Markus de Domenico (public)
Catherine Grenier (physician)
Roy Kirkpatrick (physician)
Linda Robbins (public)

Appearances:

Kenzie Bunting and Kathleen Farrell, for the College
Jared Greenspan and Robin McKechney, for the registrant

RESTRICTION ON PUBLICATION

Pursuant to Rule 2.2.2 of the OPSDT Rules of Procedure and ss. 45-47 of the Health Professions Procedural Code, no one shall publish or broadcast the names of patients or any information that could identify patients or disclose patients' personal health information or health records referred to at a hearing or in any documents filed with the Tribunal. There may be significant fines for breaching this restriction.

Introduction

[1] The registrant Dr. Shahab Nahvi practised family medicine at a clinic in North York and emergency medicine at a hospital in Scarborough. He received his certificate of registration from the College in 2011.

[2] In May 2021, he surreptitiously administered two drugs, including Rohypnol, an illegal drug known colloquially as the “date rape” drug, under the guise of sharing pizza and orange juice with a female nurse. She was employed at the clinic, and she was formerly his patient. When she experienced physical and mental impairment as a result of the drug, he led her to a basement room, where he left her for two hours without medical help. He later took her home, staggering and slurring.

[3] When the police investigated a few days later, Dr. Nahvi took elaborate steps to evade detection. Claiming he too was unwell, he administered the same drug to himself that he had administered to the victim and then provided a urine sample that tested positive.

[4] When this matter reached hearing, Dr. Nahvi did not contest the facts presented by the College of Physicians and Surgeons, which are summarized below, and we found that he had engaged in disgraceful, dishonourable or unprofessional conduct. The College withdrew the allegations in the notice of hearing of sexual abuse and conduct unbecoming.

[5] The registrant resigned his certificate of registration and undertook never to re-apply in any jurisdiction for registration as a physician. Based on the parties’ joint submission, we delivered a reprimand and ordered the payment of costs to the College.

[6] These are our reasons.

Professional Misconduct

Relationship with Patient A

[7] Patient A was a patient of Dr. Nahvi between October 2015 and January 2021. In August 2019, she was hired to work as a Registered Nurse and receptionist at Dr. Nahvi’s clinic in North York.

[8] Patient A initially had a positive employment and social relationship with Dr. Nahvi, his wife (who also worked at the clinic, on opposite shifts to him), and other office staff. Patient A attended social events at the registrant's home.

[9] On several occasions after Patient A became an employee, Dr. Nahvi had physical contact with her, including frequent hugs (some of which Patient A found to be uncomfortably lengthy to the point that she would eventually push him away) and kissing her on the cheek. Several times, Dr. Nahvi joked that he had been exercising. On one occasion, he physically lifted Patient A off the ground in the clinic.

[10] Dr. Nahvi advised that he and Patient A would laugh and joke around when they were alone in the clinic, at lunch or after hours. They talked about some of his interesting cases at the hospital. At one point, Patient A was complaining of back pain at lunch. He conducted an informal exam on her, having her lie down on an exam table, and pressed on her back to crack it. Dr. Nahvi also made jokes to Patient A about giving massages.

Drugging on May 21, 2021

[11] On May 21, 2021, Patient A had a 9:00 am shift at Dr. Nahvi's clinic. As he occasionally did, Dr. Nahvi called Patient A in the morning and gave her a ride into the office.

[12] When they arrived, Patient A and Dr. Nahvi were the only ones working at the clinic. This was Dr. Nahvi's first day back at the office after returning from a two-week trip abroad. Dr. Nahvi insisted that Patient A try to move all the clinic's afternoon appointments to earlier in the day. Several patients were unable to change times, and they remained scheduled in the afternoon.

[13] Dr. Nahvi asked Patient A if she wanted to order pizza for lunch. It was not unusual for the clinic to order pizza for staff to share. They had a standard order of two different pizzas that was posted in the clinic. Patient A called and made the order.

[14] Patient A was running behind with the last patient before the lunch break. When she finished, she went to the "doctor's room" on the main floor of the clinic, where Dr. Nahvi had set up lunch.

[15] When Patient A entered the room, the pizza was laid out and there were two cups of orange juice already poured. She noted that her glass of juice was already full, but when she went to drink it, Dr. Nahvi poured more on top.

[16] Without her knowledge, before she entered the room, Dr. Nahvi had added a quantity of two sedative drugs, Flunitrazepam (brand name Rohypnol, aka “roofies”) and Lorazepam (brand name Ativan) to the food and drink he prepared for Patient A,

[17] In Canada, Flunitrazepam is no longer prescribed or approved for use, and it is illegal for anyone to possess it. This is largely because it is a drug commonly used to facilitate sexual offences. The Centre of Forensic Sciences Toxicology department states that Flunitrazepam is a potent benzodiazepine that can be used in the short-term treatment of insomnia or as a premedication for surgery.

[18] Lorazepam is a benzodiazepine prescribed for a variety of conditions.

[19] Both drugs have effects including sedation, dizziness, drowsiness, sleep, motor incoordination and anterograde amnesia.

[20] Dr. Nahvi did not eat any of the pizza consumed by Patient A.

[21] Patient A consumed orange juice and two or three pieces of pizza. Within about 15 minutes, she began experiencing symptoms of significant physical and mental impairment.

[22] Patient A told Dr. Nahvi she was feeling sleepy and dizzy. He told her he was also feeling unwell. Dr. Nahvi grabbed her wrist and said she should go downstairs. He told her she was probably hot on the first floor, and there was a couch to lie on in one of the basement rooms. Patient A recalled finding this odd, as she was already on a couch in the doctor’s room.

[23] Dr. Nahvi assisted Patient A to a room in the basement of the clinic where cosmetic injections were typically performed. Patient A was dizzy and did not have the strength to get up.

[24] Patient A had very little memory between 1:00 and 9:00 pm, when she woke up in her own bed in her pyjamas, with no knowledge of how she got home or how she had changed clothes.

[25] Dr. Nahvi's clinic was equipped with a DVR/CCTV security system. Some of the recordings included audio. On May 21, the cameras that were operational covered a portion of the main entrance/reception area, the parking lot, and an area of the basement facing the door to the room where Patient A went to lie down after falling ill.

[26] The video on May 21, 2021 shows the following:

[27] Before lunch, Dr. Nahvi and Patient A are moving about the clinic and interacting with each other. They appear physically well and are speaking normally.

[28] After lunch, Patient A is significantly impaired in movement and speech. She is slurring and very unsteady. In contrast, Dr. Nahvi's speech and gait appear normal throughout the day, including the point at which he gets in his vehicle after the last patient to drive out of the parking lot.

[29] At 12:37 pm, after their lunch, Patient A is heard in the reception area telling Dr. Nahvi that she feels light-headed. He walks her downstairs to the basement by her wrist and brings her into the injection room. At approximately 12:40, Dr. Nahvi brings a white serving tray from upstairs, carrying a bottle of juice and the two pizza boxes, and he places it in another basement room.

[30] There are instances when Patient A is seen leaving the injection room and stumbling toward the stairs leading up to the main area of the clinic. On one of these occasions, she tries to go upstairs but almost falls backward. She is intercepted and brought back to the basement room by Dr. Nahvi.

[31] Patient A was in the basement room in an impaired state for approximately two hours. During that time, Dr. Nahvi went in and out of the room seven times.

[32] While Patient A was in the basement room, Dr. Nahvi continued to let patients into the clinic and proceeded with their appointments.

[33] Dr. Nahvi had to physically assist Patient A up the stairs to the main level at approximately 2:30 pm after the last patient left. They had some conversation in which Patient A was still heavily slurring and remained unsteady. Dr. Nahvi told her "I'll get you home."

[34] Dr. Nahvi went downstairs to the basement to retrieve the pizza boxes at

approximately 2:40 pm. He is seen in the parking lot placing the boxes and a plastic bag with unknown contents into the back of his vehicle before getting into the driver's seat and driving out of the lot at 2:45 pm.

[35] At no point during the two hours that Patient A was in the injection room did Dr. Nahvi take steps to get medical assistance for her, despite her sedation, staggering and slurring.

[36] Patient A's memory after waking up in her bed at approximately 9:00 pm was still impaired. She recalled having a video call with friends that night. She did not remember falling asleep again. Her roommate told her the next morning that she had also made food in the evening.

[37] On the morning of May 22, Patient A could not balance or walk well. There were multiple bruises on her leg, which she suspected were sustained from falling. She had a friend over who noticed her condition and was concerned. He took her to a nearby medical clinic.

[38] Patient A later attended a hospital to give blood and urine samples for toxicology screening. These samples tested positive for Flunitrazepam and Lorazepam. Patient A does not take these drugs.

Steps to Evade Detection After the Drugging

[39] Dr. Nahvi was interviewed by police on May 27, 2021 in relation to this incident.

[40] Dr. Nahvi advised upon his arrival at the police division that he was not experiencing any health issues or concerns. He was subsequently advised by a detective that Flunitrazepam and Lorazepam were detected in Patient A's body after a toxicology screen. Dr. Nahvi advised police that he too was unwell and experienced amnesia the afternoon of May 21. He stated that he did not remember seeing patients in the afternoon at all, and that the last clear memory he had was eating pizza with Patient A.

[41] Patients who were seen by Dr. Nahvi in the afternoon of May 21 did not notice any such symptoms. They reported that he seemed physically well. One patient stated that the only thing they noticed was that Dr. Nahvi was "sweating and ... anxious."

[42] A forensic analysis of the clinic's patient Electronic Medical Records (EMR) data for May 21 showed that Dr. Nahvi was accessing and adding information to patient

charts that afternoon.

[43] Shortly after the police interview on May 27, Dr. Nahvi attended the emergency department of the hospital where he worked. He reported that he had suspected food poisoning from pizza he ate at his clinic on May 21 and was still feeling unwell. He reported symptoms of vomiting, dizziness and complete amnesia in the afternoon on May 21. He had not sought any medical attention prior to this date.

[44] Dr. Nahvi provided samples on May 27-28. Lab results indicated that Dr. Nahvi's urine sample tested positive for Flunitrazepam.

[45] At some point between May 21 and when Dr. Nahvi provided his own samples to be drug tested on May 27-28, he administered a quantity of Flunitrazepam to himself.

[46] We accept the College's submission, which was not contested by Dr. Nahvi, that he carried out all of these elaborate steps, including the statements he made to the police and the emergency department and his self-administration of Flunitrazepam and drug testing, with the intention of evading detection for what he had done to Patient A on May 21.

Conclusion on Professional Misconduct

[47] On the uncontested facts, Dr. Nahvi surreptitiously administered two drugs, one of which is colloquially known as the "date rape drug," to Patient A, his employee and former patient. When she became noticeably unwell, the registrant did not seek medical attention for her. Over the next week, he took a series of steps to conceal what he had done.

[48] The secret administration of an unknown amount of an illegal substance to Patient A, the failure to assist her to alleviate the harm he had inflicted, and the dishonest attempt to cover up his actions, all constitute serious misconduct. The panel had no hesitation in concluding that under para 1(1)33 of O. Regulation 856/93, Dr. Nahvi engaged in acts and omissions relevant to the practice of medicine that would reasonably be regarded by members as disgraceful, dishonourable or unprofessional (DDU).

[49] Upon receiving the panel's finding on DDU, and in accordance with the parties' agreement, the College withdrew the remaining allegations in the notice of hearing.

Penalty and Costs

[50] The parties' agreed statement of facts on penalty revealed that Dr. Nahvi had signed an undertaking on November 11, 2024 by which he resigned from the College effective at midnight the night before the November 15 hearing. Further, he undertook not to apply or reapply for registration as a physician in Ontario or any other jurisdiction at any time in the future. On this basis, the parties jointly submitted that the panel should issue a reprimand to Dr. Nahvi and order him to pay the agreed amount of \$6,000 for costs within one month.

[51] The Tribunal is only entitled to reject the parties' agreement if it meets the "undeniably high threshold" that the proposed penalty "would be viewed by reasonable and informed persons as a breakdown in the proper functioning of the justice system": *R. v. Anthony-Cook*, 2016 SCC 43 at paras. 34 and 42, applied recently in *Ontario College of Teachers v. Merolle*, 2023 ONSC 3453 (Div. Ct.).

[52] In this case, the panel had no difficulty in accepting a joint position that effectively amounted to revocation of Dr. Nahvi's certificate of registration, plus a prohibition against him ever practising as a physician from this point onward. The Tribunal accepted a similar penalty on a joint submission in *College of Physicians and Surgeons of Ontario v. Mossanen*, 2018 ONCPSD 54.

[53] In coming to our conclusion, we considered the objectives the Tribunal attempts to achieve through its ordering of penalties: the conduct in this case, the aggravating and mitigating circumstances, the victim impact statement that was provided by Patient A, and the relevant jurisprudence.

[54] In our view, the registrant's undertaking serves the paramount consideration of protection of the public, as well as maintenance of public confidence in the profession and the College's ability to regulate the profession effectively. The penalty achieves specific deterrence by removing Dr. Nahvi from the position of trust and authority he held, as both physician and employer, through which he carried out his objectionable

behaviour. The penalty also provides general deterrence to other registrants. There is no available rehabilitation in these circumstances.

[55] The uncontested evidence shows very serious misconduct that victimized a woman who was doubly vulnerable. She was in a subordinate employment position, and in that context, she participated in social activities with the registrant and his wife. She was also a recent and longstanding patient of Dr. Nahvi.

[56] In *College of Physicians and Surgeons of Ontario v. Herman*, 2021 ONCPSD 6, in the context of aggravating factors, the Tribunal commented on the exceptional vulnerability of a young patient who worked with the physician and was also a family acquaintance. In that case, the physician added alcohol to his young patient's coffee before touching her sexually on the examining table.

[57] The registrant's actions betrayed Patient A's trust. His conduct was also reckless and uncaring. Through his imprecise administration and inability to control her ingestion of an illegal, date rape drug, and his failure to assist her when the medications had their anticipated effect, he put her in a position of physical danger.

[58] Twenty-four years ago, the Discipline Committee described the serious risk that another physician imposed on his victims in similar circumstances: *College of Physicians and Surgeons of Ontario v. Caughell*, 2000 ONCPSD 18, at pp. 6-7.

[59] Dr. Nahvi's attempts at concealment thereafter, in dosing himself and declaring he was unwell, were plainly dishonest.

[60] There are some mitigating circumstances. The registrant has no previous discipline history. By entering into a full joint submission on finding, penalty and costs, he spared Patient A the need to testify and saved time and resources for the College and the Tribunal.

[61] Finally, in her victim impact statement, Patient A described the continuing emotional distress that Dr. Nahvi's egregious actions have inflicted on her for the last three-and-a-half years. As a nurse and family member, and because of her involvement with lawyers and investigators, these "nightmarish moments come rushing back" every day. When she sees patients in the emergency room crying "for reasons similar to mine," she tries to empathize and offer comfort, but is instead forced to step away because "the

memories resurface.” The impact on her as a member of the public, and as a former employee and patient of Dr. Nahvi, has been serious and ongoing.

[62] As noted, we accepted the parties’ agreement for costs payable by the registrant to the College.

Order

[63] We made the following order:

1. The Tribunal requires the registrant to appear before the panel to be reprimanded.
2. The Tribunal requires the registrant to pay the College costs of \$6,000 by December 16, 2024.

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Tribunal File No.: 24-014

BETWEEN:

College of Physicians and Surgeons of Ontario

College

- and -

Shahab Nahvi

Registrant

**The Tribunal delivered the following Reprimand
by videoconference on Friday, November 15, 2024.**

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

Dr. Nahvi,

You have appeared before the Discipline Tribunal today as a result of serious allegations. These allegations relate to your surreptitious administration of two drugs, one of which is known colloquially as “the date rape drug”, to Patient A, your employee and former patient. It is further alleged that you took steps subsequently to evade detection of the drugging. Once Patient A had ingested the drugs and was noticeably unwell, you did not seek medical attention for her.

You do not contest these allegations, nor do you contest that these allegations constitute disgraceful, dishonourable or unprofessional conduct, which we find today.

Your actions in drugging an unsuspecting individual are morally reprehensible, and the fact that they involved a work colleague and former patient only exacerbate your misconduct.

You have signed an undertaking to resign from the College and not to re-apply for registration in Ontario or any other jurisdiction. As a result, you will no longer hold the privilege of practising medicine in this province or elsewhere.

This is an appropriate remedy that reflects the seriousness of your transgressions and ensures the safety of the public.