

**SUMMARY of the Decision of the Inquiries, Complaints and Reports Committee
(the Committee)**
(Information is available about the complaints process [here](#) and about the Committee [here](#))

**Dr. Nickoli Tsandelis (CPSO #31274)
(the Respondent)**

INTRODUCTION

The Complainant was a patient of the Respondent (Obstetrics and Gynecology). The Complainant went to the Respondent's office for an appointment following an endometrial ablation and a polypectomy. During this encounter, the Respondent also performed a gynecological examination on the Complainant for STI (sexually transmitted infection) testing. The Complainant contacted the College of Physicians and Surgeons of Ontario (the College) to express concerns about the Respondent's conduct.

COMPLAINANT'S CONCERNS

The Complainant is concerned that the Respondent:

- may have used his cellular telephone to take photographs of the Complainant's vaginal area and possibly her face during a gynecological examination;
- failed to seek the Complainant's consent or first explain what he intended to do with his cellular telephone;
- failed to ensure that the examination room was properly operational including adequate lighting to perform the examination; and
- may be photographing or videotaping other patients without their knowledge.

COMMITTEE'S DECISION

A General Panel of the Committee considered this matter at its meeting of July 17, 2019. The Committee required the Respondent to attend at the College to be cautioned in person with respect to using a cellular telephone as a light during an intimate examination without obtaining proper consent and ensuring the patient was aware of what he was doing.

COMMITTEE'S ANALYSIS

*Concern that the Respondent used his cellular telephone during a gynecological examination
-AND-*

Concern that the Respondent failed to obtain the Complainant's consent

- The Committee reviewed the parties' accounts, which were divergent. Among other things, the Respondent indicated that he used the light on his cellular telephone

because the light in the examination room was malfunctioning, that he asked the Complainant if that was okay, and that he did not take any photographs of the Complainant. The Complainant, on the other hand, stated that the Respondent never tried using the lamp in the room, that she saw him turn on the light from his cellular telephone when she pushed the paper sheet away to see what the Respondent was doing, and that he did not ask her if he could use his cellular telephone as a light for the examination.

- The Committee is limited to a documentary review only, and in the absence of independent information confirming one party's version of events over the other, therefore could not determine with any certainty what exactly occurred during the encounter. That said, the Committee was of the view that even if it took the Respondent's account of what transpired, the Respondent exercised very poor judgment in using his cellular telephone during an intimate examination.
- Furthermore, the Committee found it was clear that the Complainant did not understand what the Respondent was doing, regardless of what took place during the encounter. That is, even if the Respondent thought he communicated with the Complainant before using the light on his cellular telephone, he failed to obtain proper consent and ensure the Complainant was aware of what he was doing. In the Committee's opinion, while it was questionable to use a cellular telephone during a gynecological examination at all, at the very least, the Respondent should have obtained very clear and explicit consent from the Complainant before using a device that could take pictures. The Committee was therefore of the view that it was appropriate to caution the Respondent in person, as outlined above.

The Committee took no further action on the Complainant's concern that the Respondent photographed or videotaped patients, finding that there was no independent information before the Committee demonstrating that the Respondent photographed or videotaped the Complainant or any other patients. Indeed, the College engaged a forensic expert to analyze the Respondent's cellular telephone, and no patient photographs were recovered.

The Committee also took no further action on the concern respecting the examination room, finding that there was no information indicating that the Respondent could have predicted that the lamp would malfunction in the midst of a clinical examination.