NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. George Douglas Gale, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of Dr. Gale's patients, or any information that would disclose the identities of the patients, under subsection 45(3) of the Health Professions Procedural Code (the "Code"), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, as amended.

Subsection 93(1) of the Code, which is concerned with failure to comply with these orders, reads:

> Every person who contravenes an order made under … section 45 or 47… is guilty of an offence and on conviction is liable,
>
> > (a) in the case of an individual to a fine of not more than $25,000 for a first offence and not more than $50,000 for a second or subsequent offence; or
> >
> > (b) in the case of a corporation to a fine of not more than $50,000 for a first offence and not more than $200,000 for a second or subsequent offence.

Indexed as: Ontario (College of Physicians and Surgeons of Ontario) v. Gale, 2020 ONCPSD 41

DISCIPLINE COMMITTEE
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 which is Schedule 2 of the *Regulated Health Professions Act*, *1991*, S.O. 1991, c. 18, as amended.

B E T W E E N:

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. GEORGE DOUGLAS GALE

PANEL MEMBERS:

MR. PIERRE GIROUX (Chair)
DR. PAUL GARFINKEL
MR. MEHDI KANJI
DR. YVONNE VERBEETEN
DR. MICHAEL FRANKLYN

COUNSEL FOR THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO:

MS PENELOPE NG

COUNSEL FOR DR. GALE:

MR. ADAM PATENAUDE

INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:

MS JENNIFER MCALEER

Hearing Date and Decision Date: August 10, 2020
Release of Reasons Date: October 5, 2020

PUBLICATION BAN

DECISION AND REASONS FOR DECISION

The Discipline Committee (the "Committee") of the College of Physicians and Surgeons of Ontario ("the College") heard this matter via videoconference on August 10, 2020. At the conclusion of the hearing, the Committee released a written order stating its finding that the member committed an act of professional misconduct and setting out its penalty and costs order with written reasons to follow.

THE ALLEGATIONS

The Notice of Hearing alleged that Dr. Gale committed an act of professional misconduct:

1. under paragraph 1(1)2 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* in that he has failed to maintain the standard of practice of the profession.

The Notice of Hearing further alleged that Dr. Gale is incompetent.

RESPONSE TO THE ALLEGATIONS

Dr. Gale entered a plea of no contest to the first allegation in the Notice of Hearing, that he has failed to maintain the standard of practice of the profession.

Counsel for the College withdrew the allegation of incompetence.

THE FACTS

The following facts were set out in a Statement of Uncontested Facts and Plea of No Contest (Liability) which was filed as an exhibit and presented to the Committee.

PART I – FACTS

Background

1. Dr. George Douglas Gale ("Dr. Gale") is an 85-year-old anesthesiologist. He graduated from the University of Durham in the United Kingdom in 1958 and received his certificate of registration authorizing independent practice from the College of Physicians and Surgeons of Ontario (the "College") in 1971.

2. In his annual renewals filed with the College between 2013 and 2018, Dr. Gale described that he spends 90% of his clinical practice in the area of chronic pain management without general/spinal anesthesia. At the relevant times, a large portion of Dr. Gale's practice was devoted to injection therapies for chronic pain, including but not limited to nerve block and trigger point injections.

Registrar's Investigation

3. In October 2014, the College received information from an Associate Medical Health Officer with Toronto Public Health regarding an adverse event experienced by a 91-year-old patient following a shoulder joint pain injection performed by Dr. Gale. In November 2014, the Inquiries, Complaints and Reports Committee of the College (the "ICRC") approved an appointment of investigators under section 75(1)(a) of the Health Professions Procedural Code (the "Code") to investigate whether Dr. Gale engaged in professional misconduct or is incompetent in his pain management practice.

4. As part of its investigation, the College retained a medical inspector to provide an opinion regarding Dr. Gale's pain management practice. In a report dated August 5, 2015, the medical inspector raised significant concerns regarding Dr. Gale's standard of practice and opined that in 19 out of 25 charts that he reviewed, Dr. Gale's care exposed his patients to harm or injury.

Undertaking and Clinical Supervision

5. As a result of the Registrar's Investigation, on December 21, 2015, Dr. Gale signed an Undertaking with the College that required him to practice under the guidance of a clinical supervisor for nine months, engage in professional education, and submit to a reassessment of his practice approximately six months following his clinical supervision. A copy of Dr. Gale's Undertaking signed December 21, 2015 is attached at Tab 1 to the Statement of Uncontested Facts and Plea of No Contest (Liability). In January 2016, the ICRC accepted Dr. Gale's December 21, 2015 Undertaking and also required Dr. Gale to attend before the ICRC to be cautioned in person on the prevention, diagnosis and treatment of infection. A copy of the ICRC's Decision and Reasons dated January 22, 2016 is attached at Tab 2 to the Statement of Uncontested Facts and Plea of No Contest (Liability).

6. Pursuant to his December 21, 2015 Undertaking, Dr. Gale practiced under the guidance of a Clinical Supervisor from February 2016 to November 2016.

Failure to Maintain the Standard of Practice

7. Following Dr. Gale's clinical supervision, the College retained Dr. George Evans, MD, FRCPC Anesthesiology and Chronic Pain, to conduct the reassessment of Dr. Gale's practice pursuant to Dr. Gale's December 21, 2015 Undertaking with the College. Dr. Evans is an Anesthesiologist and Chronic Pain Physician at the Ottawa Hospital and has served as the Ottawa Hospital's Pain Fellowship Director and Pain Residency Director.

8. Dr. Evans prepared a report dated April 19, 2018, based on a review of 15 medical charts and an interview with Dr. Gale. Subsequently, Dr. Evans provided an addendum report to respond to the questions of whether the care provided by Dr. Gale met the standard of practice of the profession and whether a risk of harm or

potential risk of harm was identified. Dr. Evans' initial report and his addendum report were provided in one report, dated July 26, 2018, attached at Tab 3 to the Statement of Uncontested Facts and Plea of No Contest (Liability).

9. Dr. Evans opined that in seven out of the 15 charts he reviewed, the care provided to the patient by Dr. Gale did not meet the standard of practice. Dr. Evans further opined that eight out of the 15 charts displayed a lack of knowledge; three out of the 15 charts displayed a lack of judgment; three out of the 15 charts displayed a lack of skill; and seven out of the 15 charts indicated clinical practice, behaviour or conduct which exposes or is likely to expose Dr. Gale's patients to harm. In his report, Dr. Evans expressed the following concerns, among others:

    (a) Dr. Gale's knowledge and appropriate use of nerve blocks appeared to be inadequate.

    (b) With respect to two patients, Dr. Gale provided an excessively vague diagnosis and/or lack of appropriate diagnosis:

        (i) In Chart #4, Dr. Gale provided an excessively vague diagnosis of "biomechanical disorder of the spine" with no reference to any level, i.e., cervical, thoracic, lumbar or sacral.

        (ii) In Chart #10, Dr. Gale continued providing frequent nerve blocks despite minimal effect and minimal changes in the patient's function. The patient was eventually assessed by an orthopedic spine surgeon, who did not recommend injections other than a possible trial of facet injections and who believed that the patient's leg pain may be vascular in nature and not radicular pain. The patient eventually underwent successful vascular surgery.

(c) With respect to Charts #6 and 10, Dr. Gale performed multiple sciatic nerve blocks on the patient with no indication for the blocks. With respect to Chart #6, there was no diagnosis to justify the blocks and Dr. Gale continued performing the blocks with minimal relief and a lack of notes justifying the practice.

(d) With respect to Charts #3, 8, 9, 10, 11 and 13, Dr. Gale performed sciatic nerve blocks with low volume and no image guidance or nerve stimulation. Sciatic nerve blocks performed with low volumes and no image guidance or stimulation are unlikely to block the sciatic nerve and puts the patient at increased risk of injection into other deep structures, vessels, and nerves, and other complications.

(e) Dr. Gale appeared to have a lack of knowledge in that a small volume, i.e. 3 cc, would be able to block the sciatic nerve or pudendal nerve without ultrasound guidance, fluoroscopic guidance or with the use of a nerve stimulator. Normal volume for this type of block even under image guidance or nerve stimulation is 15 - 20 cc for therapeutic procedures. Using a volume of less than 5 cc is not likely to block the sciatic nerve without image guidance.

(f) In Charts #1, 3, 6, 8, 9, 10, 11 and 13, Dr. Gale's chart notes were inadequate in relation to the procedures provided, technique of blocks provided, which sterile prep solution was used, needle(s) size and gauge, which nerve was injected or how it was localized, and/or local anesthetic amounts used. Patient chart notes should adequately describe the technique used and needle size and length, so that if there are any complications, it would be easier for Dr. Gale or another physician to differentiate and work up potential complications with greater accuracy.

(g) With respect to multiple patients, Dr. Gale performed multiple weekly injections on the patient with minimal relief and a lack of notes justifying the practice. For example:

(i) With respect to Chart #6, the patient underwent multiple weekly injections despite that various progress notes describe the patient's pain relief from the blocks at only 10% or 20% for hours. There is no note justifying the continued use of frequent blocks with such a small amount of relief.

(ii) With respect to Chart #8, Dr. Gale continued multiple level weekly nerve blocks despite that the progress notes describe minimal to no pain relief and, according to the patient, no effect on life. Dr. Gale's notes describe improvements in all functional areas of functional status, despite the patient's reports that the blocks only help minimally and for minimal duration and did not make any significant life change.

(iii) With respect to Chart #10, Dr. Gale continued weekly injections despite that the patient was only getting 20% to 30% pain relief for 1-2 days or less. Dr. Gale's notes described improved areas of function but no actual description of any improvements.

According to Dr. Evans, if a patient fails to have adequate relief after nerve blocks on two occasions, no further blocks in the same area should be offered. The physician caring for the patient should re-examine and re-assess the diagnosis and re-evaluate if nerve blocks are indicated. Failing to stop doing procedures when there is inadequate response puts patients at unnecessary risks of complications and pain from the injections themselves.

(h) Dr. Gale failed to appropriately refer patients to other specialists. For example:

(i) With respect to Chart #1, Dr. Gale referred the patient for epidural steroids, which was not appropriate or indicated. A referral for other interventions such as SI joint injection/ablation, facet injection or ablation would have been more appropriate. Dr. Gale did not appear to know that axial pain or spondylosis is not a reason for referral to neurosurgery or for epidural injections. In the referral, there is no noted radicular pain/disc herniation, which would be a diagnosis where epidural steroids are appropriate. Furthermore, the patient was referred to a neurosurgery/surgical consultation service that does not do epidural steroids.

(ii) With respect to Chart #6, Dr. Gale continued to perform multiple weekly injections with minimal relief and no consideration or referral for a possible more lasting treatment such as facets blocks or ablation, SI injection with steroids under imaging guidance or possible ablation.

(i) Dr. Gale appeared to over rely on EMG testing to diagnose radicular pain or radiculopathy that could benefit from epidural steroids or surgical evaluation.

Dr. Gale's Interim Undertaking Restricting his Practice

10. On November 14, 2019, Dr. Gale entered into an Undertaking with the College in lieu of the ICRC making an interim order under section 25.4 of the Code. Dr. Gale's November 14, 2019 Undertaking restricts him from performing interventional pain procedures. A copy of Dr. Gale's November 14, 2019 Undertaking is attached at Tab 4 to the Statement of Uncontested Facts and Plea of No Contest (Liability).

PART II – PLEA OF NO CONTEST

11. Dr. Gale does not contest the facts specified above, and does not contest that, based on these facts, he engaged in professional misconduct:

    a) in that he has failed to maintain the standard of practice of the profession, under paragraph 1(1)2 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*.

RULE 3.02 – PLEA OF NO CONTEST

Rule 3.02 of the Rules of Procedure of the Discipline Committee states:

> 3.02(1) Where a member enters a plea of no contest to an allegation, the member consents to the following:
>
> > that the Discipline Committee can accept as correct the facts alleged against the member on that allegation for the purposes of College proceedings only;
> >
> > that the Discipline Committee can accept that those facts constitute professional misconduct or incompetence or both for the purposes of College proceedings only; and
> >
> > that the Discipline Committee can dispose of the issue of what finding ought to be made without hearing evidence.

FINDING

The Committee accepted as correct all of the facts set out in the Statement of Uncontested Facts and Plea of No Contest (Liability). Having regard to these facts, the

Committee accepted Dr. Gale's plea of no contest, and found that he committed an act of professional misconduct in that he has failed to maintain the standard of practice of the profession, under paragraph 1(1)2 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*.

PENALTY AND REASONS FOR PENALTY

Facts on Penalty

The following facts were set out in an Agreed Statement of Facts (Penalty), which was filed as an exhibit and presented to the Committee:

Dr. Gale's History with the College

Discipline History with the College

1. On December 3, 2001, following a hearing, the Discipline Committee of the College found that Dr. Gale failed to meet the standard of practice of the profession. The Decision and Reasons for Decision of the Discipline Committee dated December 3, 2001 are attached at Tab 1 to the Agreed Statement of Facts (Penalty). The Decision and Reasons for Decision as to Penalty dated March 15, 2002 are attached at Tab 2 to the Agreed Statement of Facts (Penalty).

2. Dr. Gale appealed the findings and penalty to the Divisional Court. In a judgment dated October 10, 2003, attached at Tab 3 to the Agreed Statement of Facts (Penalty), the Divisional Court set aside a portion of the Discipline Committee's findings. The Divisional Court upheld the Discipline Committee's finding that Dr. Gale failed to maintain the standard of practice of the profession based on his care and treatment of one patient and his use of heavy sedation/general anesthesia with nerve blocks. The Divisional Court remitted the issues of liability

it had set aside, as well as penalty, for consideration before a differently constituted panel of the Discipline Committee.

3. The Discipline Committee reconsidered the matter on May 10, 2004. The Decision and Reasons for Decision dated May 10, 2004 are attached at Tab 4 to the Agreed Statement of Facts (Penalty). The College did not conduct a new hearing into the liability issues set aside by the Divisional Court. Based on a joint submissions to penalty, the Discipline Committee ordered that Dr. Gale undertake an assessment of his competence through a Specialty Assessment Program by the Quality Assurance Committee ("QAC") of the College, that Dr. Gale comply with the QAC's recommendations, and that Dr. Gale comply with any terms, conditions and limitations which the QAC may direct the Registrar to impose on his certificate of Registration.

Past Inquiries, Complaints and Reports Committee and Complaints Committee Decisions

4. In September 2001, the Complaints Committee of the College considered the investigation of a complaint made by another member of the College. That member complained about comments that Dr. Gale had made in a medical publication. The Complaints Committee cautioned Dr. Gale in writing to refrain from referring to his colleagues in an unprofessional manner. A copy of the September 2001 Complaints Committee Decision and Reasons is attached at Tab 5 to the Agreed Statement of Facts (Penalty).

5. In June 2009, the Inquiries, Complaints and Reports Committee of the College (the "ICRC") considered an investigation of Dr. Gale's practice after information was received from the College's Quality Assurance Committee that Dr. Gale may be incompetent regarding his chronic pain management practice. The ICRC determined that no action would be taken with respect to the matter. A copy of

the June 2009 ICRC Decision and Reasons is attached at Tab 6 to the Agreed Statement of Facts (Penalty).

6. In September 2010, the ICRC considered the investigation of a complaint by one of Dr Gale's patients. The patient complained, among other things, that Dr. Gale failed to provide adequate treatment in the management of her care in that he failed to wipe her arm with alcohol prior to administering nerve block injections and failed to take her blood pressure after the nerve block injections were given. The ICRC cautioned Dr. Gale in writing to ensure that he undertakes appropriate post-procedure monitoring of patients and that he documents same. A copy of the September 2010 ICRC Decision and Reasons is attached at Tab 7 to the Agreed Statement of Facts (Penalty).

7. On April 8, 2020, the ICRC considered the investigation of a complaint by a member of the public. The complainant was concerned about Dr. Gale's role at a clinic at which an unlicensed individual was holding himself out to be a physician and prescribing medical marijuana. In response to the complaint, Dr. Gale signed an Undertaking with the College in which he agreed to restrict his practice by ceasing all practice relating to cannabis. A copy of the April 8, 2020 ICRC Decision and Reasons is attached at Tab 8 to the Agreed Statement of Facts (Penalty). A copy of Dr. Gale's Undertaking signed May 9, 2020 is attached at Tab 9 to the Agreed Statement of Facts (Penalty).

Reports of Dr. Partridge and Dr. Evans

8. Dr. Michael Partridge was asked for his opinion on Dr. Gale's non-interventional pain practice. Dr. Partridge reviewed the 15 cases from Dr. Gale's practice that were reviewed by Dr. George Evans as well as Dr. Evans' expert opinion report dated July 26, 2018. Based on Dr. Partridge's review of the 15 cases reviewed by Dr. Evans, Dr. Partridge opined that Dr. Gale's non-interventional pain practice is within the standard of care. A copy of Dr. Partridge's opinion report

dated May 20, 2020 is attached at Tab 10 to the Agreed Statement of Facts (Penalty).

9. Dr. Evans was provided with a copy of Dr. Partridge's May 20, 2020 opinion report. In response to Dr. Partridge's May 20, 2020 opinion report, Dr. Evans provided an Addendum Report dated June 9, 2020, that included the following comments:

> In this report Dr. Micheal [sic] Partridge does not review any of the interventional pain procedural care that was provided. This review of cases misses on significant amounts of the practice and care provided by Dr. Gale at that time. I don't believe it is appropriate to only asses a portion of the care provided at that time, in order to determine if Dr Gale's practice met the standard of care at that time. Therefore this review does not change my opinion as previously stated (Reports dated July 26, 2018 and November 4, 2018).
>
> …
>
> In summary, the report by Dr. Micheal Partridge does not change my opinion in relation to the care provided by Dr. Gale at the time of the review. I would suggest after such a significant change in his pain practice, that a new chart review would be needed in order to determine if his current practice meets standard of care and does not expose patients to undo [sic] risk.

A copy of Dr. Evans' June 9, 2020 Addendum Report is attached at Tab 11 to the Agreed Statement of Facts (Penalty).

Dr. Gale's Undertaking

10. Dr. Gale has entered into an undertaking to the College, dated August 6, 2020, attached at Tab 12 to the Agreed Statement of Facts (Penalty). Dr. Gale has

undertaken not to perform any interventional pain procedures as set out in Appendix “A” to the Undertaking, effective immediately.

SUBMISSIONS ON PENALTY

Counsel for the College and counsel for Dr. Gale made a joint submission as to an appropriate penalty and costs order. They submit that the order should provide for a reprimand and the placement of terms, conditions and limitations on Dr. Gale’s certificate of registration that include a requirement for clinical supervision, a reassessment of his practice and ongoing monitoring. They also agree that costs should be awarded to the College in the amount of $6,000.00, within 90 days of the Committee’s order.

Although the Committee has discretion to accept or reject a joint submission on penalty, the law provides that the Committee should not depart from a joint submission, unless the proposed penalty would bring the administration of justice into disrepute, or is otherwise not in the public interest (*R. v. Anthony-Cook* 2016 SCC 43).

The Discipline Committee accepts the joint submission.

Analysis

In considering an appropriate penalty, the Committee is guided by the principles of public protection; maintaining the integrity of the profession and public confidence in the College’s ability to regulate the profession in the public interest; specific deterrence; general deterrence; and where applicable or appropriate, rehabilitation. Other principles include denunciation of the misconduct and proportionality.

The joint submission on penalty provides for significant restrictions on Dr. Gale’s Certificate of Registration including intense supervision coupled with ongoing monitoring of his current practice. In particular, Dr. Gale will no longer perform injection therapies

for the management of pain in his patients. Injection therapy constituted 90% of his previous practice and their inferior application was largely responsible for bringing him to the attention of the complaints and disciplinary departments of the College.

The prohibition on the performance of injection therapies and the ongoing supervision of Dr. Gale's practice will protect the public and should foster public confidence in the College's ability to regulate the profession in the public interest . This penalty, including the reprimand, will also provide both specific and general deterrence, in addition to maintaining the integrity of the profession. Since the non-interventional component of Dr. Gale's previous practice was only 10%, and now it will represent the great majority of his practice, close monitoring of his practice is essential. Dr. Evans, an expert in pain management, suggested that a chart review be done for Dr. Gale's current practice. The Discipline Committee is in agreement.

With respect to the principle of rehabilitation, although he has not admitted the allegations, Dr. Gale has shown some insight in cooperating with the College to arrive at the plea of no contest and joint submission on penalty, including his agreement to refrain from injection therapies. The Committee took this into account as a positive factor in considering his prospects for rehabilitation.

Aggravating Factors

Dr. Gale's professional performance has been the subject of review by the Inquiries, Complaints and Reports Committee and the Discipline Committee of the College at various points since 2001. Despite the opportunities for rehabilitation given to Dr. Gale by the College, he failed to benefit from them. His past discipline history is an aggravating factor.

Mitigating Factors

Dr. Gale undertook to cease his interventional pain management in November 2019, including all nerve blocks. In addition, he did not contest the allegation of professional misconduct. This action reduced the cost and time commitment for the College. In addition, the resolution means that none of his patients were required to participate in the hearing.

Prior Cases

The Discipline Committee was provided with a Joint Book of Authorities which included two prior decisions of this Committee. Both of these cases involved findings of failing to maintain the standard of practice of the profession. Although prior Committee decisions are not binding, the Committee has accepted as a principle of fairness that generally, like cases should be treated alike.

1. *CPSO v. Pardis*, 2017 ONCPSD 18 ("*Pardis*")

2. *CPSO v. Ghumman*, 2017 ONCPSD 34 ("*Ghumman*")

In *Pardis*, the Committee found multiple problems in Dr. Pardis' family practice, including problems investigating medical conditions, problems in management of patients' medical conditions, record-keeping problems, excessive/unnecessary laboratory investigations, over prescribing of antibiotics, and poor coordination of care with consultants. With respect to his methadone practice, there were charting/record keeping deficiencies as had been seen in his family practice, concerns about methadone interactions with other prescribed medications, and adherence to CPSO methadone maintenance treatment program standards and clinical guidelines. There was also a lack of documentation to support his clinical decision making which made it difficult to determine if Dr. Pardis was adhering to methadone treatment guidelines. Dr. Pardis had been the subject of prior attempts at rehabilitation by the College. Dr. Pardis

admitted the allegation and undertook to cease family practice. The Discipline Committee allowed him to continue his methadone practice, but only under an intense supervision and monitoring programme at his own cost.

In comparing this case with that of Dr Gale, the Committee finds that both physicians engaged in professional misconduct which included poor patient management. Further, both physicians had failed to benefit from prior attempts at rehabilitation, which gave rise to the order for strict terms, conditions and limitations on the physician's certificate of registration. The Committee finds that the circumstances of this case are similar to those of Dr. Gale and supports the proposed penalty.

In *Ghumman*, the Discipline Committee found that Dr. Ghumman had committed an act of professional misconduct in that he failed to maintain the standard of practice of his profession. The Committee found that his misconduct included errors in judgement, overuse of antibiotics, overuse of post-surgical drains and poor note-keeping.

The Committee accepted the parties' joint submission and ordered that Dr. Ghumman receive a reprimand and that terms, conditions and limitations be placed on his certificate of registration, including a requirement that he not reapply for the position as Chief of Staff at his hospital (a position from which he had resigned) until he had completed the terms of the Committee's Order. In addition, he was ordered to undergo one year of clinical supervision followed by a reassessment and ongoing monitoring. He was also ordered to complete an individualized education plan. The Committee finds that the circumstances of this case are similar to those of Dr. Gale and supports the proposed penalty.

CONCLUSION

The Committee finds that the proposed order does not bring the administration of justice into disrepute and is not contrary to the public interest.

ORDER

The Committee stated its findings in paragraph 1 of its written order of August 10, 2020. In that order, the Committee ordered and directed on the matter of penalty and costs that:

2. **THE DISCIPLINE COMMITTEE ORDERS** Dr. Gale to appear before the panel to be reprimanded.

3. **THE DISCIPLINE COMMITTEE DIRECTS** the Registrar to impose the following terms, conditions and limitations on Dr. Gale's Certificate of Registration:

a. <u>Clinical Supervision</u>

i. Within thirty (30) days of this Order, at his own expense, Dr. Gale shall retain a College-approved clinical supervisor (the "**Clinical Supervisor**") who shall sign an undertaking in the form attached hereto as **Schedule "A"**.

ii. Commencing on the date of this Order and continuing until the end of the six (6) month period of Moderate-Level Supervision set forth in paragraph 3.c) below, Dr. Gale shall practise only under the supervision of the Clinical Supervisor.

iii. Clinical Supervision of Dr. Gale's practice shall contain the elements set forth in paragraphs 3.b) through 3.d) below.

b. **<u>Reduced Practice Clinical Supervision</u>**

i. Initially and until Dr. Gale starts to see more than ten (10) patients per week, by way of telemedicine or otherwise, Dr. Gale shall

practice only under Reduced Practice Clinical Supervision, during which time the Clinical Supervisor shall, at minimum:

1. Review materials provided by the College and have an initial telephone or secure electronic video conference with Dr. Gale to discuss practice improvement recommendations;

2. Thereafter, once every month: (a) review all charts for the patients with whom Dr. Gale consulted over the preceding month; and (b) meet with Dr. Gale, in person, by telephone or secure video conference, to discuss any issues or concerns arising from the chart reviews;

3. Provide reports to the College once every month, or more frequently if the Clinical Supervisor has concerns about Dr. Gale's standard of practice or conduct;

4. Discuss with Dr. Gale any concerns the Clinical Supervisor may have arising from his discussions with Dr. Gale and chart reviews;

5. Make recommendations for practice improvements and ongoing professional development, and inquire into Dr. Gale's compliance with any recommendations; and

6. Keep a log of all patient charts reviewed along with patient identifiers.

ii. Dr. Gale shall provide the College with at least seven (7) days' written notice of Dr. Gale's intention to see more than ten (10)

patients per week by way of telemedicine or otherwise ("**Dr. Gale's Return to Active Practice**").

c. <u>Moderate-Level Clinical Supervision</u>

i. Commencing from Dr. Gale's Return to Active Practice and continuing for a period of six (6) months, Dr. Gale shall practise only under Moderate-Level Clinical Supervision, during which time the Clinical Supervisor shall, at minimum:

1. Meet with Dr. Gale once every two (2) weeks, at Dr. Gale's Practice Location or another location approved by the College, to review a minimum of fifteen (15) charts, to be selected in the sole discretion of the Clinical Supervisor, and discuss any issues or concerns arising therefrom with Dr. Gale;

2. Provide reports to the College once per month, or more frequently if the Clinical Supervisor has concerns about Dr. Gale's standard of practice or conduct;

3. Discuss with Dr. Gale any concerns the Clinical Supervisor may have arising from his meetings with Dr. Gale and chart reviews;

4. Make recommendations for practice improvements and ongoing professional development, and inquire into Dr. Gale's compliance with any recommendations; and

5. Keep a log of all patient charts reviewed along with patient identifiers.

d. **Other Elements of Clinical Supervision**

i. Throughout the period of Clinical Supervision, Dr. Gale shall abide by the recommendations of the Clinical Supervisor, including but not limited to, any recommended practice improvements and ongoing professional development.

ii. If a Clinical Supervisor who has given an undertaking as set out in Schedule “A” to this Order is unable or unwilling to continue to fulfill its terms, Dr. Gale shall, within twenty (20) days of receiving notice of same, obtain an executed undertaking in the same form from a person who is acceptable to the College and ensure that it is delivered to the College within that time.

iii. If Dr. Gale is unable to obtain a Clinical Supervisor in accordance with this Order, he shall cease to practice until such time as he has done so and this shall constitute a term, condition or limitation on his certificate of registration and that term, condition or limitation shall be included on the public register.

iv. Dr. Gale shall consent to the disclosure by his Clinical Supervisor to the College, and by the College to his Clinical Supervisor, of all information the Clinical Supervisor or the College deems necessary or desirable in order to fulfill the Clinical Supervisor’s undertaking and Dr. Gale’s compliance with this Order.

e. Re-Assessment

i. Approximately three (3) months after the completion of the period of Clinical Supervision set out above, Dr. Gale shall undergo a re-

assessment of his practice, at his own expense, by a College-appointed assessor (the "**Assessor(s)"**). The Assessor(s) shall report the results of the re-assessment to the College.

ii. Dr. Gale shall cooperate fully with the Reassessment and with the Assessor(s). Dr. Gale shall consent to the disclosure to the Assessor(s) of the reports of the Clinical Supervisor arising from the supervision, and shall consent to the sharing of all information between the Clinical Supervisor, the Assessor(s) and the College, as the College deems necessary or desirable in order to fulfill their respective obligations.

f. <u>Monitoring</u>

i. Dr. Gale shall inform the College of each and every location where he practices, in any jurisdiction (his "**Practice Location(s)**") within five (5) days of this Order and shall inform the College of any and all new Practice Locations within five (5) days of commencing practice at that location.

ii. Dr. Gale shall cooperate with unannounced inspections of his practice and patient charts by one or more College representative(s) for the purpose of monitoring and enforcing his compliance with the terms of this Order.

iii. Dr. Gale shall consent to the College's making appropriate enquiries of the Ontario Health Insurance Plan and/or any person or institution that may have relevant information, in order for the College to monitor and enforce his compliance with the terms of this Order.

iv. Dr. Gale shall be responsible for any and all costs associated with implementing the terms of this Order.

4. **THE DISCIPLINE COMMITTEE ORDERS** Dr. Gale to pay costs to the College in the amount of $6,000.00 within 90 days of the date of this Order.

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

Schedule "A"

UNDERTAKING OF DR. _____

TO THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

1. I am a practising member of the College of Physicians and Surgeons of Ontario (the "**College**").

2. I have read the Order of the Discipline Committee of the College dated _____, 2020 regarding Dr. Gale, and have read the Statement of Uncontested Facts and Plea of No Contest (Liability) and the attachments thereto, the Undertaking of Dr. Gale signed _____, and the Agreed Statement of Facts (Penalty). I understand the terms, conditions and limitations that the Registrar of the College has been directed to impose upon Dr. Gale's certificate of registration.

3. I will review as soon as practicable any additional materials regarding Dr. Gale's practice provided to me by the College as well as the College's Guidelines for College-Directed Supervision.

4. I agree that commencing from the date I sign this undertaking, I shall act as Clinical Supervisor for Dr. Gale, for the duration of no less than six (6) months. My obligations as Clinical Supervisor shall include, at a minimum:

Reduced Practice Clinical Supervision

(a) Initially and until Dr. Gale starts to see more than ten (10) patients per week:

i. Review materials provided by the College and have an initial telephone or secure electronic video conference with Dr. Gale to discuss practice improvement recommendations;

ii. Thereafter, once every month: (a) review all charts for the patients with whom Dr. Gale consulted over the preceding month; and (b) meet with Dr. Gale, in person, by telephone or secure video conference, to discuss any issues or concerns arising from the chart reviews;

iii. Provide reports to the College once every month, or more frequently if I have concerns about Dr. Gale's standard of practice or conduct;

iv. Discuss with Dr. Gale any concerns I may have arising from my discussions with Dr. Gale and chart reviews;

v. Make recommendations for practice improvements and ongoing professional development, and inquire into Dr. Gale's compliance with my recommendations; and

vi. Keep a log of all patient charts reviewed along with patient identifiers.

Moderate-Level Clinical Supervision

a) Commencing from the time that the College advises me in writing that Dr. Gale is to transition to Moderate-Level Supervision (following his written notice to the College of his intention to start seeing more than ten (10) patients per week), and continuing for a minimum period of at least six (6) months:

i. Meet with Dr. Gale once every two (2) weeks, at Dr. Gale's Practice location or another location approved by the College, to review a minimum of fifteen (15) charts, to be selected in my sole discretion, and discuss any issues or concerns arising therefrom with Dr. Gale;

ii. Provide reports to the College once per month, or more frequently if I have concerns about Dr. Gale's standard of practice or conduct;

iii. Discuss with Dr. Gale any concerns that I may have arising from my meetings with Dr. Gale and chart reviews;

iv. Make recommendations for practice improvements and ongoing professional development, and inquire into Dr. Gale's compliance with my recommendations; and

v. Keep a log of all patient charts reviewed along with patient identifiers.

5. I agree that if I am concerned that Dr. Gale's practice may fall below the standard of practice of the profession, that Dr. Gale may not be in compliance with the terms of the August 10, 2020 Order or his Undertaking(s) with the College, and/or that his patients may be exposed to risk of harm or injury, at any time during the Clinical Supervision I shall immediately notify the College.

6. I acknowledge that Dr. Gale has consented to my disclosure to the College and all other Clinical Supervisors of all information relevant to any of the following:

(a) Dr. Gale's compliance with the terms of the Discipline Committee's Order and his Undertaking(s) with the College; and

(b) the provisions of this, my Clinical Supervisor's undertaking.

7. I acknowledge that all information that I become aware of in the course of my duties as Dr. Gale's Clinical Supervisor is confidential information and that I am prohibited, both during and after the period of Clinical Supervision, from communicating it in any form and by any means except in the limited circumstances set out in sections 36(1)(a) through 36(1)(j) of the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18 (the "**RHPA**").

8. I undertake to notify the College and Dr. Gale in advance wherever possible, but in any case immediately following, any communication of information under section 36(1) of the

RHPA.

9. I agree to immediately notify the College in writing if Dr. Gale and I have terminated our Clinical Supervision relationship or if I otherwise cannot fulfill the terms of my Undertaking.

Dated at _____, this _____ day of _____ , 2020.

_____ _____

Dr. Witness signature

Print name: _____

TEXT of PUBLIC REPRIMAND
Delivered August 10, 2020
in the case of the
COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO
and
DR. GEORGE DOUGLAS GALE

Dr. Gale,

The facts are unassailable.

The history of your practice mismanagement, that previously brought you before the Discipline Committee of this College, stretches back to 2001 at which time you were found to have failed to meet the standard of practice of the profession.

In the intervening years, there have been other interactions with this College through the Inquiries, Complaints, and Reports Committee for a wide variety of issues including unprofessional conduct, inadequate treatment in the management of care of a patient, and even earlier this year there was a complaint regarding your role at a clinic that was providing medical marijuana.

So here we are almost two decades later, dealing with the same egregious practice behaviour, and set of issues that over a period of several years in your practice of chronic pain management, the care you provided your patients failed to meet the standard of the profession.

To compound matters, you continue to display a lack of knowledge, skill, and judgement which was more likely than not to expose your patients to harm.

Equally if not more alarming, is that over this lengthy period you lacked the insight and self-assessment to acknowledge your shortcomings and to take steps to look for assistance and education to overcome these glaring deficiencies. Even when there

were opportunities for remediation and education, it appears you did not benefit from them.

It is indeed fortunate, and due more to good luck than good management, that there was not more harm done to your patients.

Now, when you continue your practice and although you have voluntarily agreed to end your interventional pain medicine practice, your regulator has put in place strict guardrails on your remaining practice to include terms, conditions, and limitations on your certificate of registration including clinical supervision, recommended practice improvements and ongoing professional development, and ultimately a clinical re-assessment. Through these measures the College attempts to ensure the public is protected, and hopefully save you from yourself.

We trust you will make the most of this opportunity, as it may be the last chance you have to salvage your reputation as a co competent physician.