

**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. Ashwin Maharaj (CPSO #67100)
(the Respondent)**

INTRODUCTION

The Complainant was referred to the Respondent, a general surgeon, for assessment of rectal bleeding and possible hemorrhoids. The Complainant attended the Respondent's clinic for a scheduled flexible sigmoidoscopy procedure, which was the first time she met the Respondent in person.

While in the procedure room and prepped for the sigmoidoscopy (including having already had a discussion with the anaesthetist about the possible side effects of anaesthesia)—a member of the clinic staff (later identified to be an international medical graduate working as a physician assistant) reviewed the procedure paperwork with the Complainant and also asked her if she would consent to having a hemorrhoid removed. The Complainant indicated that she "was fine with that if it is what needs to be done", explaining in her letter to the College, however, that she did not have symptoms of hemorrhoids and at the time was not well informed about the condition or the nature of the procedure.

Post-procedure, the Complainant stated, she learned from the operative report that she had undergone a sigmoidoscopy and endoscopic hemorrhoidectomy. The post-procedure care was onerous for the Complainant, who had recently given birth and was also breast-feeding her infant at the time.

The Complainant eventually spoke to the Respondent by telephone in late June to ask about the procedure and why and how the hemorrhoid surgery was done. The Complainant remained dissatisfied with the Respondent's answers to her questions and thereafter contacted the College with her concerns.

COMMITTEE'S DECISION

A Surgical Panel of the Committee considered this matter at its meeting of March 22, 2024. The Committee required the Respondent to appear before a Panel of the Committee to be cautioned with respect to: failure to obtain informed consent; performing experimental, non-evidence-based treatment outside an ethics board-approved clinical trial; and the need to reflect on his ethical obligations as a physician regarding conducting experimental procedures and what is best for patients.

COMMITTEE'S ANALYSIS

As part of this investigation, the Committee retained an independent Assessor who specializes in general surgery. In summary, the Assessor opined that:

- The Respondent fell below the standard of practice of the profession in his management of the Complainant. Such management should have consisted of taking a medical history, and conducting a physical examination, and proctoscopy. No anaesthesia or sedation was required for any part of this.
- The Complainant did not need an operation for minor hemorrhoids given she had minimal symptoms; conservative management (that is not having surgery) would have been appropriate and risk-free.
- Instead, the Complainant was sedated, underwent flexible sigmoidoscopy, and treatment for hemorrhoids with “endoscopic hemorrhoidectomy”, an unrecognized, experimental treatment for which the Assessor was not aware of any scientific evidence supporting such an approach.
- Given the experimental nature of the treatment, the Respondent should have obtained consent from the Complainant to participate in experimental treatment, but there is no evidence of such a consent process in the record.
- The Respondent’s description of the Complainant’s condition indicates a lack of knowledge in the staging of hemorrhoids, and he used a non-evidence-based treatment for the Complainant’s hemorrhoids.
- The Respondent demonstrated a “profound deficiency in judgement” in excising hemorrhoidal tissue in a patient with minimal symptoms.
- The Respondent’s practice, behaviour, and conduct, including the profound lack of judgement, exposes patients to risk of harm or injury. The use of an unconventional, experimental procedure is outside of the professional standard.

The Committee acknowledged the Respondent’s further submissions, disputing the Assessor’s opinion that endoscopic hemorrhoidectomy is an experimental treatment, and that he did not have knowledge of staging of hemorrhoids. The Respondent acknowledged that some of the Assessor’s comments were reasonable and have caused him, in consultation with the clinic’s medical director, not to perform the procedure in question. The Respondent also provided information to the College about the role of the clinic staff who provided care to the Complainant under his direction. He indicated that he had reviewed with her the importance of clearly introducing herself to

patients and defining her role in the patient's care.

Concerns that:

- *The Respondent failed to ensure that staff properly introduce themselves, failed to allow the Complainant the opportunity to consent to receiving care from unregulated health professionals, and failed to ensure that administrative staff address unregulated healthcare professionals appropriately*
- *The Respondent failed to provide the Complainant with information and explain the nature of the endoscopic hemorrhoidectomy prior to the procedure and therefore failed to obtain valid and informed consent to treatment from her*
- *The Respondent was negligent in the care he provided and had the Complainant undergo a surgery that was not needed*
- *The Respondent communicated in an unprofessional manner, responded aggressively and offensively by stating that the Complainant "seemed to be making a big deal" of the situation and that she "should seek out a general surgeon in hospital for a more complete treatment to be examined more closely" and that the Complainant was "obviously not happy with the treatment" he provided, and offered confusing and contradictory information regarding the procedure and post-op care than what was originally received the day before the procedure*
- *The Respondent failed to acknowledge, take accountability, or show empathy or remorse for the pain and suffering that the Complainant has endured due to the unnecessary hemorrhoidectomy*

The Committee noted that:

- The Complainant was referred to the Respondent for investigation of a single episode of rectal bleeding.
- Anticipating a flexible sigmoidoscopy, the Complainant instead underwent a procedure that the Respondent calls an "endoscopic hemorrhoidectomy", which the Complainant alleges she did not consent to. Prior to the procedure, clinic staff took the Complainant's entire medical history (an international medical graduate the Complainant was later introduced to as Dr. MB). According to the Complainant, there was no discussion with the Respondent on the day of the procedure, nor did the Respondent show up for their scheduled telephone follow-up call post-procedure, which had to be rescheduled.
- The Committee further noted that the Assessor's review of the investigative record, plus interview with the Respondent, confirmed its own view that the care

the Respondent provided the Complainant failed to meet the standard of practice of the profession. In the Committee's view, the Assessor's report also provided support for the areas of concern the Complainant outlined in her complaint.

- Overall, the care provided by the Respondent to the Complainant failed to meet the standard of practice of the profession and also exposed his patients to a risk of harm, given the experimental nature of the procedure conducted on the Complainant, without informed consent.

The Committee's concerns about the Respondent's care of the Complainant were amplified by similar complaints by three other patients, which the Committee considered concurrently with the Complainant's matter.

The Committee further observed that the procedure performed—"endoscopic hemorrhoidectomy"—is not described in the medical literature (confirmed by the Assessor) and should not be performed outside of an ethics-approved, randomized, controlled clinical trial. The Committee indicated that the Respondent is essentially experimenting on patients without their consent in using snare-cautery to remove hemorrhoids in the same manner as adenomatous polyps are removed.

In addition to sub-standard, experimental, and unethical care, the Committee noted that the Respondent's clinic appeared to have been misrepresenting the physician assistant to patients as a physician licensed to practise in Ontario, notwithstanding the Respondent's assurances to the contrary. This is concerning.

Of further concern to the Committee was the Respondent's documentation of consent. Notably, the Complainant's clinic chart contains documented, informed consent in the procedure note for sigmoidoscopy, but not for hemorrhoidectomy, despite the Respondent's assurances to the contrary. This is another shortcoming in care and medical records documentation.

Regarding the Complainant's concerns about the Respondent's communications and interactions with her, the Committee was not reassured by the Respondent's response to this aspect of the complaint given his history with the College in which his communications are repeatedly an issue, and taking into consideration the three other complaints with similar concerns the Committee considered at the same time it reviewed the present complaint.