

**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. Oleg Tugalev (CPSO# 78078)  
Physical Medicine  
(the Respondent)**

## **INTRODUCTION**

The College received information raising concerns about the Respondent's communications and conduct. Specifically, a patient reported that during an examination the Respondent touched her inappropriately (in that he "fondled" or "cupped" her bottom to examine pressure points, moved her legs so she felt "exposed," and examined her spine at the opening of the gown in the back), failed to provide adequate privacy for her to change her clothing, and made inappropriate comments of a sexual nature (indicating "no one but your husband should be allowed to move your legs this way" and suggested "hydrotherapy" in a hot tub with a glass of wine with her husband that could progress to sex that would relax her). The patient also expressed concern that the Respondent's laptop may have had the camera on while she undressed.

Subsequently, the Committee approved the Registrar's appointment of investigators to conduct a broad review of the Respondent's practice.

## **COMMITTEE'S DECISION**

A General Panel of the Committee considered this matter at its meeting of July 15, 2020. The Committee required the Respondent to attend at the College to be cautioned in person with respect to maintaining professional behaviour and communication and avoiding boundary crossings in the context of a physician-patient relationship.

The Respondent also provided an undertaking to the College, which included, among other things, that the Respondent: complete three months of clinical supervision; review and provide written reports on the College policies *Boundary Violations*, and *Physician Behaviour in the Professional Environment*, and complete individualized instruction in communication and professionalism satisfactory to the College, with an instructor selected by the College.

## **COMMITTEE'S ANALYSIS**

As part of this investigation, the Registrar appointed an independent Assessor who specializes in physical medicine to review the patient chart, interview the Respondent, and submit a written report to the Committee.

The Assessor noted that the Respondent's history and physical examination met the standard. It was appropriate for the patient to be in a gown, and for the Respondent to examine the shoulders, back, and other joints to rule out radiculopathy.

College investigators confirmed that the Respondent's laptop used with the EMG (electromyography) machine did not have a camera on it.

The Committee accepted that the alleged touching in this case occurred during a clinically indicated examination, and that it would be difficult to prove sexual intent for the touching (which the Respondent denied) at a Discipline Hearing. As for the alleged inappropriate comments, the Respondent denied making comments for an improper and/or sexual intent. He said his intention in making certain comments was to lighten the mood and be humorous, and that other comments were made as part of a comprehensive approach to function (e.g. physical, cognitive, emotional, and social aspects of function).

The Committee acknowledged that the Respondent's version of events differs from the patient. However, it was apparent to the Committee that the visit and the Respondent's communications with the patient were ineffective and in fact distressing to her (even if unintended to be so). The Committee's concern about the quality of the Respondent's communications was heightened as it considered several investigations at the same time where similar concerns about the Respondent's communications and boundaries were raised. Also, upon reviewing the Respondent's personnel file from the Clinic where he was working, we noted that staff had raised concerns about the professionalism of his communications with them, including making comments with sexual overtones.

The Committee looked at the totality of the evidence before it and determined that this matter should not be referred to Discipline. The Committee concluded that the educational value of a verbal caution before the Committee in conjunction with extensive remediation as set out in the undertaking would sufficiently address its concerns with the Respondent's communications and boundaries.