

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Todd Kevin Young, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of the complainant or any information that could disclose the identity of the complainant under subsection 47(1) 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 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. Young,
2019 ONCPSD 44**

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

B E T W E E N:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. TODD KEVIN YOUNG

PANEL MEMBERS:

**MR. P. PIELSTICKER
DR. Y. VERBEETEN
DR. P. BERGER
MR. J.P. MALETTE, QC
DR. B. LENT**

COUNSEL FOR THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO:

MS. EMILY GRAHAM

COUNSEL FOR DR. YOUNG:

**MS. JENNY STEPHENSON
MS. CHRISTINE WADSWORTH**

INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:

MS. JENNIFER MCALEER

PUBLICATION BAN

**Hearing Date: July 23, 2019
Decision Date: July 23, 2019
Release of Reasons Date: September 17, 2019**

DECISION AND REASONS FOR DECISION

The Discipline Committee (the “Committee”) of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on July 23, 2019. At the conclusion of the hearing, the Committee released a written order stating its finding that Dr. Young 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. Todd Kevin Young committed an act of professional misconduct:

- 1) under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”), in that he has engaged in an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional;
- 2) under clause 51(1)(b.1) of the Health Professions Procedural Code which is schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18 (the “Code”) in that he engaged in sexual abuse of a patient; and
- 3) under clause 51(1)(b) of the Code, in that the governing body of a health profession in a jurisdiction other than Ontario has found that Dr. Young committed an act of professional misconduct that would, in the opinion of the panel, be an act of professional misconduct under section 51 of the Code or an act of professional misconduct as defined in O. Reg. 856/93.

RESPONSE TO THE ALLEGATIONS

Dr. Young admitted the allegations in the Notice of Hearing, that he has engaged in an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional; has

engaged in sexual abuse of a patient; and that the governing body of a health profession in a jurisdiction other than Ontario has found that he committed an act of professional misconduct that would, in the opinion of the panel, be an act of professional misconduct under section 51 of the Code or an act of professional misconduct as defined in O. Reg. 856/93.

THE FACTS

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

A. Background

1. Dr. Todd Young is 49 years old. He has held a certificate of independent practice with the College of Physicians and Surgeons of Ontario since 2004. He also holds a certificate of registration with the College of Physicians and Surgeons of Newfoundland and Labrador. As of August 2009, he has practiced as a family physician in Springdale, Newfoundland.

B. Patient A

2. Dr. Young was Patient A's family physician between August 2009 and February 2011. A copy of Dr. Young's handwritten chart notes with respect to Patient A, and a transcription thereof, are attached at Tab 1 to the Agreed Statement of Facts (Liability).

3. In addition to being Dr. Young's patient, Patient A was also employed at the hospital where Dr. Young worked.

4. While Patient A was a patient of Dr. Young's, Dr. Young engaged in a personal relationship with Patient A. He socialized with her at work in the doctor's lounge, in Dr. Young's office, and in the clinic, both during the day and after hours. They discussed matters of a personal nature, including that they were both having difficulties in their respective marriages. They exchanged personal cell phone numbers, and would text each other throughout the day.

5. On February 21, 2011, Dr. Young transferred Patient A's care to another family physician in order to pursue a romantic relationship with Patient A. After the termination of the physician-patient relationship, Dr. Young and Patient A continued to be work colleagues, and their relationship became romantic. Dr. Young and Patient A began dating in August 2011, and began having sexual intercourse in approximately late 2011/early 2012. Their relationship ended in approximately 2014.

6. In engaging in the conduct described at paragraphs 4 and 5, Dr. Young engaged in an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

C. Patient B

7. Dr. Young was Patient B's family physician between August 2009 and January 2014.

8. In November 2013, Dr. Young and Patient B exchanged personal cell phone numbers. During a period of three months, while Patient B was a patient of Dr. Young's, Dr. Young engaged in a romantic relationship with Patient B, consisting of communications via text and over the telephone about personal matters, including Patient B's separation from her husband, and hugging and kissing on a couple of occasions.

9. In engaging in the conduct described at paragraph 8, Dr. Young engaged in the sexual abuse of Patient B, and in an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

D. College of Physicians and Surgeons of Newfoundland and Labrador

10. On November 26, 2015, Dr. Young appeared before the Adjudication Tribunal of the College of Physicians and Surgeons of Newfoundland and Labrador and pleaded guilty to an allegation that he had engaged in "conduct deserving of sanction", as defined in s. 39(c) of the

Medical Act, 2011, c. M-4.02. Under s. 39(c) of the *Medical Act, 2011*:

39. (c) “conduct deserving of sanction” includes:

- (i) professional misconduct,
- (ii) professional incompetence,
- (iii) conduct unbecoming a medical practitioner,
- (iv) incapacity or unfitness to engage in the practice of medicine, and
- (v) acting in breach of this Act, the regulations or the code of ethics adopted under section 15 [emphasis added].

11. Dr. Young pled guilty to engaging in conduct deserving of sanction with respect to his conduct towards Patients A and B, as set out above.

12. For reasons released December 15, 2018, the Adjudication Tribunal of the College of Physicians and Surgeons of Newfoundland and Labrador found Dr. Young “guilty of conduct deserving of sanction in relation to his personal and sexual relationship with Patient A with whom he had a doctor/patient relationship and in relation to his inappropriate kissing and hugging with patient B with whom he had a doctor/personal relationship”.

13. Copies of the following documents relating to the proceeding before the Adjudication Tribunal of the College of Physicians and Surgeons of Newfoundland and Labrador are attached as follows as tabs to the Agreed Statement of Facts (Liability):

- a) Agreed Statement of Facts for Disciplinary Hearing, dated November 26, 2015 (Tab 2);
- b) Book of Documents (Tab 3):
 - i) Correspondence from Dr. Richard Lush, Vice President Medical Services, Central Health to Dr. Robert Young, Registrar of the College dated April 18, 2014
 - ii) Correspondence from Dr. Richard Lush to Dr. Robert Young, dated May 2, 2014
 - iii) Voluntary Withdrawal from Active Clinical Practice signed by Dr.

This is not an official transcript.

Todd Young dated April 30, 2014

- iv) Typed statement of Dr. Todd Young dated April 29, 2014 regarding Patient A;
- v) Typed statement of Dr. Todd Young dated April 29, 2014 regarding Patient B;
- vi) Correspondence from Dr. Todd Young to Dr. Robert Young, dated May 6, 2014;
- vii) Handwritten statement of the Second Complainant/Patient A dated July 29, 2014;
- viii) Correspondence from Dr. Todd Young to Dr. Robert Young, dated September 11, 2014;
- ix) Handwritten correspondence from the Second Complainant/Patient A to Dr. Robert Young, dated October 11, 2014
- x) Correspondence from Dr. Todd Young to Dr. Robert Williams, Deputy Registrar of the College dated December 4, 2014;
- c) Guilty Plea (Tab 4);
- d) Joint Submission on Sanction, dated November 26, 2015 (Tab 5); and
- e) Adjudication Tribunal decision, dated December 18, 2015 (Tab 6).

14. As set out in paragraphs 10 to 13, the governing body of a health profession in a jurisdiction other than Ontario, namely the College of Physicians and Surgeons of Newfoundland and Labrador, found that Dr. Young committed:

- a) an act of professional misconduct that would be an act of professional misconduct under section 51 of the Code, specifically, sexual abuse of a patient (Patient B); and
- b) an act of professional misconduct as defined in O. Reg. 856/93, specifically, an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as

This is not an official transcript.

disgraceful, dishonourable or unprofessional (Patients A and B).

PART II – ADMISSION

15. Dr. Young admits the facts at paragraphs 1 to 14 above, and admits that, based on these facts, he engaged in professional misconduct under:

- a) paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”), in that he has engaged in an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional;
- b) clause 51(1)(b.1) of the Health Professions Procedural Code which is schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18 (the “Code”) in that he engaged in sexual abuse of a patient; and
- c) clause 51(1)(b) of the Code, in that the governing body of a health profession in a jurisdiction other than Ontario has found that Dr. Young committed an act of professional misconduct that would, in the opinion of the panel, be an act of professional misconduct under section 51 of the Code or an act of professional misconduct as defined in O. Reg. 856/93.

FINDING

The Committee accepted as correct all of the facts set out in the Agreed Statement of Facts (Liability). Having regard to these facts, the Committee accepted Dr. Young’s admission and found that he committed an act of professional misconduct in that: he has engaged in an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional; he has engaged in sexual abuse of a patient; and in that the governing body of a health profession in a jurisdiction other than Ontario has found that Dr. Young committed an act of professional misconduct that would, in the opinion of the panel, be an act of professional misconduct as defined under Ontario legislation.

PENALTY AND REASONS FOR PENALTY

Counsel for the College and counsel for Dr. Young made a joint submission as to an appropriate penalty and costs order. The parties jointly proposed that Dr. Young's certificate of registration be suspended for six months; that he attend before the panel to be reprimanded; and that he pay costs to the College in the amount of \$6,000.00.

The Committee has the discretion to accept or reject a joint submission but is aware of the Supreme Court of Canada's decision in *R. v. Anthony-Cook*, 2006 SCC 43 which holds that a joint submission on penalty must be accepted unless doing so would bring the administration of justice into disrepute, or is otherwise contrary to the public interest.

In considering the joint proposal, the Committee also had regard to the penalty principles that it applies in consideration of appropriate orders. Paramount is the principle of public protection. The penalty imposed should also denounce the misconduct, be proportionate to the misconduct and serve as a specific deterrent to the member and a general deterrent to the profession. Further, the penalty should maintain the integrity of the profession, and public confidence in the College's ability to regulate the profession in the public interest. Where possible, the penalty should address the rehabilitative needs of the member.

Nature of the Misconduct and Disposition in Newfoundland and Labrador

Dr. Young was the family physician for two emotionally vulnerable female patients in Newfoundland and had sexual relations with each, one of whom was still a patient at the time. Both women were having personal problems including marital difficulties and confided in Dr. Young who, in the case of one patient, discussed his own marital problems.

On November 26, 2015, Dr. Young pled guilty before the College of Physicians and Surgeons of Newfoundland and Labrador to "conduct deserving of sanction" in relation to the two patients. The Adjudication Tribunal's written decision was released on December 18, 2015. Dr. Young had voluntarily withdrawn from medical practice on April 30, 2014 and received a nineteen month suspension as penalty for his misconduct, the suspension ending on November 30, 2015. Dr. Young was ordered to attend counselling sessions and to attend interviews at the College, to

participate in continuing medical education in the areas of professionalism and ethics, and to employ a female medical chaperone for 12 months. There was no evidence presented to the Committee indicating that Dr. Young failed to meet the obligations imposed upon him. The Committee notes that the Newfoundland decision was rendered on December 18, 2015. The Notice of Hearing referring the matter to this Committee was issued on November 14, 2018. The Committee had no facts before it regarding what took place between December 2015 and the referral in November of 2018.

Aggravating Factors

Dr. Young exploited the inherent power imbalance in his professional relationship with both patients for his own personal gratification. The Committee is appalled that Dr. Young placed his own needs ahead of those of his patients. By sexualizing his professional relationship with both women, Dr. Young wholly abandoned his ethical duty to act in their best interests.

Dr. Young took unfettered advantage of the emotional susceptibility of both patients who were each undergoing personal problems including marital difficulties. He used the knowledge he acquired professionally of the patients' problems to leverage his influence over them for sexual purposes.

Dr. Young's misconduct took place during time periods where there was a concurrent physician-patient relationship, indicating the breadth of his breach of professionalism.

The fact that Dr. Young took advantage of vulnerable patients for his own sexual gratification is an aggravating factor.

Mitigating Factors

Dr. Young has no prior history of appearances before the Discipline Committee and no complaints record at the College. Further, Dr. Young has fully admitted the allegations and in doing so, has acknowledged his culpability with respect to the misconduct. Dr. Young's admission relieved the two patients from the burden of testifying and has avoided the necessity of holding a contested hearing.

Prior Cases

The Committee was provided with a Joint Book of Authorities that contained five similar prior cases before the Committee. Although the Committee's prior decisions are not binding as precedent, the Committee accepts as a principle of fairness that like cases should be treated alike.

In the case of the *CPSO v. Dr. Tennen*, 2013 ONCPSD 41, Dr. Tennen (a male psychiatrist) admitted to hugging and kissing two female patients and making inappropriate comments to them. He admitted to kissing one patient on the lips once and kissing another patient on the cheek once. He admitted the allegations of failing to maintain the standard of practice of the profession and to engaging in conduct or an act of omission relevant to the practice of medicine that, having regard to all circumstances, would reasonably be regarded by members as disgraceful, dishonorable or unprofessional. The Notice of Hearing had also alleged that he engaged in the sexual abuse of a patient but this allegation was withdrawn by the College at the hearing. The Committee accepted the parties' joint proposal and Dr. Tennen received a reprimand, a three month suspension and was ordered to undergo a twelve month period of supervision with a reassessment. He was also was ordered to pay costs. The facts in this case appear to be similar to the facts in the case before us, but we note that there was no finding of sexual abuse in Dr. Tennen's case.

CPSO v. Dr. Redhead, 2013 ONCPSD 18 (Liability) and 2014 ONCPSD 2 (Penalty), was a contested hearing. Dr. Redhead (a male physician) was found to have engaged in conduct or an act of omission relevant to the practice of medicine that, having regard to all circumstances, would reasonably be regarded by members as disgraceful, dishonorable or unprofessional on the basis that he engaged in a sexual relationship with Ms X only a few weeks after the end of their doctor-patient relationship, and by giving gifts to Ms X. The Committee in that case found that the allegation of sexual abuse was not proven, as there was no concurrence between the doctor/patient relationship and the sexual activity. Dr. Redhead received a reprimand, a five month suspension, was ordered to attend instruction in professionalism and was ordered to pay costs. The Committee notes that the legislation has changed since the decision in this case and the definition of "patient", which extends the time period during which an individual is

considered to be a patient by one year after the individual ceased to be the member's patient, would now provide that there had been sexual activity during the doctor/patient relationship.

In the case of the *CPSO v. Dr. Leduc*, 2018 ONCPSD 59, Dr. Leduc (a male physician) admitted to repeatedly hugging a vulnerable female patient, pursuing a social relationship with her and unsafely prescribing to her narcotics and benzodiazepines. He admitted the allegations of failing to maintain the standard of practice of the profession and disgraceful, dishonorable or unprofessional conduct. Further the Committee found that Dr. Leduc had taken steps to remediate his failings as soon as he was notified of the complaint against him. He successfully completed the University of Toronto course in Safe Opioid Prescribing in 2014 and again in 2018. He had also complied with the specified continuing education or remediation program which the College's Inquiries, Complaints and Reports Committee required of him as well as completed the Boundaries course. The Committee viewed these to be mitigating factors. In keeping with the jointly proposed penalty, Dr. Leduc received a reprimand, a six-month suspension and was ordered to pay costs. The Committee finds this case to be analogous to the case before it.

In the case of the *CPSO v. Dr. Henderson*, 2005 ONCPSD 5, Dr. Henderson admitted to kissing, hugging and fondling the breasts of a female patient and to making inappropriate sexual remarks to her. He admitted the allegations of engaging in sexual abuse of a patient, engaging in sexual impropriety (under the former *Health Disciplines Act, 1980*), and engaging in disgraceful, dishonorable or unprofessional conduct. Dr. Henderson had previously received a three-month suspension for professional misconduct, which was an aggravating factor considered by the Committee in determining an appropriate penalty. Dr. Henderson's penalty consisted of a reprimand, a nine-month suspension, and attendance at the College's Ethics Course. The Committee notes that under the current legislation, this type of sexual abuse would have resulted in mandatory revocation. Consequently, this case was of limited assistance to the Committee.

In the case of *CPSO v. Dr. Horri*, 2017 ONCPSD 12 (liability) and 2019 ONCPSD 15 (re-determination on penalty), Dr. Horri (a male physician), admitted to having engaged in a lengthy sexual relationship with a vulnerable female patient too soon after their professional relationship ended. Dr. Horri tried to minimize both the extent of his relationship and the degree of trust the

patient had placed in him. The Committee revoked Dr. Horri's certificate of registration, but he successfully appealed the revocation to the Divisional Court. At a re-determination of penalty hearing, the Committee ordered a reprimand, a twelve-month suspension, and an individualized course in ethics. Dr. Horri was also ordered to pay costs to the College.

The Committee is satisfied that the proposed penalty falls within a reasonable range of penalties, taking into account the cases referred to above and the particular facts of this case, including the disposition previously ordered by the College of Newfoundland and Labrador.

CONCLUSION

The Committee, after careful consideration of the facts, including the prior disposition in Newfoundland and Labrador, and the submissions of counsel, accepted the joint penalty as proposed by the parties. The penalty meets the requirements for public protection, and specific and general deterrence. It is proportionate to the misconduct, taking into consideration the aggravating and mitigating factors. It also serves to denunciate the conduct. Further, the penalty should maintain the integrity of the profession and public confidence in the College's ability to regulate the profession in the public interest. The Committee notes that Dr. Young was ordered by the Newfoundland and Labrador College to attend counselling sessions and interviews at that College, and to participate in continuing medical education in the areas of professionalism and ethics, which we expect assisted him in his personal rehabilitation.

ORDER

The Committee stated its findings in paragraph 1 of its written order of July 23, 2019. In that order, the Committee ordered and directed on the matter of penalty and costs that:

2. Dr. Young attend before the panel to be reprimanded.
3. The Registrar suspend Dr. Young's certificate of registration for a period of six (6) months, commencing from July 24, 2019 at 12:01 a.m.

4. Dr. Young pay costs to the College in the amount of \$6,000.00 within 30 days of the date of the Order.

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

TEXT of PUBLIC REPRIMAND
July 23, 2019
in the case of the
COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO
and
Dr. Todd Kevin Young

Dr. Young,

Your egregious behaviour is deserving of this public reprimand.

You served as family physician to two female patients and had sexual relations with both. You are well aware of the power imbalance inherent in the doctor-patient relationship. You took advantage of two women, your patients, for your own personal gratification.

These were women who were having personal problems. They confided and trusted in you as their physician. You took advantage of their vulnerabilities for your own personal gratification. You put your own needs above theirs. Your actions were callous and predatory.

You have disgraced the medical profession and dishonoured your colleagues by your egotistical and thoughtless behaviour.

Revocation of your medical license is the sole penalty that reflects the magnitude of your actions. It is an unequivocal reminder to you, the profession, and the public that there is zero tolerance towards physicians who sexually abuse their patients.