

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Citation: *College of Physicians and Surgeons of Ontario v. Salib*, 2024 ONPSDT 22

Date: October 21, 2024

Tribunal File No.: 23-024

BETWEEN:

College of Physicians and Surgeons of Ontario

College

- and -

Isaac Nagy Ibrahim Salib

Registrant

FINDING AND PENALTY REASONS

Heard: September 17, 2024, by videoconference

Panel:

Jennifer Scott (panel chair)
Stephen Bird (public)
Rupa Patel (physician)
Linda Robbins (public)
Susanna Yanivker (physician)

Appearances:

Kathleen Farrell, for the College
Robin McKechney, for the registrant

RESTRICTION ON PUBLICATION

Pursuant to Rule 2.2.2 of the OPSDT Rules of Procedure and ss. 45-47 of the Health Professions Procedural Code, no one shall publish or broadcast the names of patients or any information that could identify patients or disclose patients' personal health information or health records referred to at a hearing or in any documents filed with the Tribunal. There may be significant fines for breaching this restriction.

Introduction

[1] Dr. Salib made his patient feel uncomfortable when he hugged her at the end of an appointment. The hug was not consensual and was not clinically appropriate.

[2] Dr. Salib admitted, and we found, that he engaged in an act that would reasonably be regarded by the profession as disgraceful, dishonourable or unprofessional.

[3] The parties made a joint submission that the penalty should be a two-month suspension, a reprimand and completion of the PROBE ethics course. They agreed further that Dr. Salib would pay costs at the standard tariff rate of \$6,000 for a half-day hearing.

[4] We must accept this joint submission unless to do so would bring the administration of justice into disrepute. Applying that test, we accepted the joint submission at the hearing. These are our reasons.

Misconduct

[5] Dr. Salib is a family physician. He saw Patient A at a walk-in clinic on five separate occasions. During the first four appointments, Patient A obtained certain tests and immunizations that were required for her educational program. At the last appointment, Dr. Salib completed forms relating to Patient A's pursuit of employment.

[6] At the end of the last appointment, Dr. Salib hugged Patient A in a way that made her uncomfortable. He positioned his arms around Patient A, underneath her armpits, with her arms on his shoulder. Patient A felt Dr. Salib's hold was too tight and too close. During the hug, Dr. Salib put his hand around Patient A's waist. Patient A felt his face was too close to her jaw and neck. Dr. Salib agrees his conduct is disgraceful, dishonorable and unprofessional.

Joint Submission

[7] The parties made a joint submission on penalty. A joint submission will be rejected only where it is contrary to the public interest in a way that brings the administration of justice into disrepute: *R. v. Anthony-Cook*, 2016 SCC 43 at para. 34.

[8] A penalty is contrary to the public interest when it fails to protect the public and/or impairs the ability of the College, and by extension the Tribunal, to regulate the profession of medicine and govern physicians. If the proposed penalty violates the public interest, the administration of justice is brought into disrepute. In the professional regulation context, this means the proper functioning of the College's professional discipline system has broken down.

[9] We considered the seriousness of Dr. Salib's misconduct, his discipline history and the caselaw on penalties in similar cases because these are the factors that are relevant to determining whether the proposed penalty fails to protect the public interest.

[10] Dr. Salib's misconduct is serious. Patient A saw Dr. Salib for immunizations, tests and completion of forms. There was no clinical reason for him to hug Patient A at the end of the last appointment and the nature of the hug made Patient A feel uncomfortable. His touching of Patient A was a boundary crossing and constitutes serious misconduct. See *College of Physicians and Surgeons of Ontario v. Ganapathy*, 2009 ONCPSD 6 at p. 9.

[11] Dr. Salib has no discipline history.

[12] The penalty proposed by the parties is within the range of penalties set out in the caselaw. In *College of Physicians and Surgeons v. Lee*, 2018 ONCPSD 65, the physician received a three-month suspension and reprimand for putting his face too close to the patient's face when there was no medical reason for him to be in such close physical proximity to the patient. The physician also breached an interim order. In *College of Physicians and Surgeons v. Ghali*, 2016 ONCPSD 18, the physician kissed a vulnerable patient's cheek and hugged her on two occasions. He received a three-month suspension, reprimand and was required to complete the Understanding Boundaries course. The facts in both of these cases are more serious than the facts before us. A shorter suspension of two months, as requested here, is appropriate given the caselaw.

[13] The joint submission on penalty protects the public. Dr. Salib is suspended from practice for two months and is required to complete further education in medical ethics. He has been reprimanded. These terms emphasize to Dr. Salib and other members of the profession the importance of exercising professional judgment to prevent boundary violations. In this case, Dr. Salib failed to exercise professional judgment and crossed a boundary when he hugged Patient A at a medical appointment when there was no

clinical reason for him to do so given the nature of the appointment and in a way that made Patient A uncomfortable. The joint submission shows the College's discipline system is working as the penalty is within the range of penalties under the caselaw. For these reasons, we find the joint submission does not bring the administration of justice into disrepute and it is accepted for this reason.

Order

[14] At the conclusion of the hearing, we ordered and directed:

1. Dr. Salib to attend before the panel to be reprimanded;
2. the Registrar to suspend Dr. Salib's certificate of registration for two months commencing October 1, 2024 at 12:01 a.m.;
3. the Registrar to place the following terms, conditions and limitations on Dr. Salib's certificate of registration effective immediately:
 - i. the registrant shall, at his own expense, participate in the PROBE Ethics and Boundaries Program offered by the Centre for Personalized Education for Professionals, by receiving a passing evaluation or grade, without condition or qualification. The registrant will complete the PROBE program within six (6) months of the date of this Order or, if it is not available within that timeframe, will complete it at the earliest opportunity. The registrant will provide proof of completion to the College, including proof of registration and attendance and participant assessment reports, within one (1) month of completing it.
4. Dr. Salib to pay the College costs in the amount of \$6000 by October 17, 2024.

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**The Tribunal delivered the following Reprimand
by videoconference on Tuesday, September 17, 2024.**

*****NOT AN OFFICIAL TRANSCRIPT*****

Self-regulation grants the privilege to practise medicine with significant autonomy. With these privileges comes the expectation to always act in patients' best interests. This includes meeting professional expectations, including maintaining appropriate boundaries with patients, which is essential to the practice of medicine. It is clear it is a physician's responsibility to uphold these boundaries when providing patient care.

Patients depend on their physicians for their knowledge, skill and judgment, and physicians are often privy to a patient's highly personal information. Physicians must always be mindful of the inherent power imbalance that exists in the physician-patient relationship.

Your conduct, namely engaging in a hug with patient A in a manner that made her feel uncomfortable, was disgraceful, dishonourable and unprofessional, and constitutes professional misconduct. In doing so, you did not maintain the professional boundaries expected of this College's registrants. The panel notes with concern that the events before us occurred shortly after you obtained your license with the College.

The terms, conditions and limitations on your certificate of registration reflect the seriousness of your professional misconduct. It is imperative that you undertake the PROBE course in good faith and reflect on appropriate interactions with those in your care.

Your admission offers us reassurance that you understand the seriousness of your misconduct. We expect you will fulfill your professional obligations appropriately in the

future, in accordance with the standards of the profession and the trust that the public places in you.