

## FORM 4 - NOTICE OF HEARING

### ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

College of Physicians and Surgeons of Ontario

**College**

- and -

Michael Aaron Bensimon

**Registrant**

### NOTICE OF HEARING

On October 28, 2024 a panel of the Inquiries, Complaints and Reports Committee of the College referred specified allegations of the registrant's professional misconduct and/or incompetence to the Tribunal.

In this proceeding, Registrant means "member" as set out in the *Regulated Health Professions Act, 1991*, the Health Professions Procedural Code, the applicable health profession Act, and the regulations thereto.

#### **The allegation(s) are that the registrant:**

1. has committed an act of professional misconduct:
  - a. 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, in that the member engaged in sexual abuse of a patient;
  - b. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, in that the member 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; and
  - c. under paragraph 1(1)2 of Ontario Regulation 856/93 in that the member has failed to maintain the standard of practice of the profession.
2. is incompetent as defined by subsection 52(1) of the Health Professions Procedural Code.

#### **Further information about these allegations is set out below:**

1. Dr. Michael Aaron Bensimon ("Dr. Bensimon") is a specialist in family medicine.

2. Patient A, whose identity has been disclosed under separate cover, was Dr. Bensimon's patient.
3. During a medical appointment on or about September 29, 2022, Dr. Bensimon engaged in sexual abuse and/or disgraceful, dishonourable or unprofessional conduct in relation to Patient A, including by touching Patient A's body in a sexual and/or inappropriate manner.
4. Dr. Bensimon is incompetent and/or failed to maintain the standard of practice of the profession in his care of Patient A.

The Tribunal will hold a hearing under sections 38 to 56 of the Health Professions Procedural Code (Code), the *Statutory Powers Procedure Act*, and the *Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020*, on a date or dates to be set at a case management conference, to decide whether the registrant has committed an act or acts of professional misconduct and/or is incompetent.

The College will file this Notice with the Tribunal. The Tribunal will then set a date for the first case management conference and send it to the parties with more information about the Tribunal's process.

**If the registrant or their representative does not attend the case management conference or the hearing, the Tribunal may proceed in the registrant's absence and the registrant is not entitled to any further notice in the proceeding.**

If the Tribunal finds the registrant committed an act or acts of professional misconduct, it may make one or more of the following orders under subsections 51(2) of the Code.

- direct the Registrar to revoke the registrant's certificate of registration.
- direct the Registrar to suspend the registrant's certificate of registration for a specified period of time.
- direct the Registrar to impose specified terms, conditions and limitations on the registrant's certificate of registration for a specified or indefinite period of time.
- require the registrant to appear before the Tribunal to be reprimanded.
- require the registrant to pay a fine of not more than \$35,000 to the Minister of Finance.
- if the act of professional misconduct was the sexual abuse of a patient, require the registrant to reimburse the College for funding provided for that patient under the program and/or require the registrant to post security acceptable to the College to guarantee this payment.

If the Tribunal finds that the registrant committed the misconduct set out in allegation 1a (sexual abuse), it is mandatory under s. 51(5.2) of the Code that the Tribunal reprimand

the registrant and revoke the registrant's certificate of registration in addition to any other order.

If the Tribunal finds a registrant is incompetent, it may make one or more of the following orders under s. 52(2) of the Code.

- direct the Registrar to revoke the registrant's certificate of registration.
- direct the Registrar to suspend the registrant's certificate of registration.
- direct the Registrar to impose specified terms, conditions and limitations on the registrant's certificate of registration for a specified period of time or indefinite period of time.

The Tribunal may, under subsection 53.1 of the Code, require the registrant to pay all or part of the College's costs and expenses.

The Tribunal's website includes the Tribunal's Rules of Procedure, Practice Directions and guides to the process.

Date: October 28, 2024

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**TO:**

Michael Aaron Bensimon