

**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. Joseph Patrick McKenna (CPSO #19159)
(the Respondent)**

INTRODUCTION

In October 2017, the Respondent performed a sigmoidoscopy on the Complainant. The Complainant contacted the College of Physicians and Surgeons of Ontario (the College) to express concern about the Respondent's conduct.

COMPLAINANT'S CONCERNS

The Complainant is concerned that the Respondent inappropriately, roughly, and forcefully touched and rubbed her vaginal area.

COMMITTEE'S DECISION

A General Panel of the Committee considered this matter at its meeting of June 5, 2019. The Committee required the Respondent to attend at the College to be cautioned in person with respect to communication, consent, privacy, boundaries, and medical record keeping, and to complete a specified continuing remediation and education program (SCERP) consisting of the completion of courses and self-directed learning.

COMMITTEE'S ANALYSIS

As part of this investigation, the Committee retained an independent Assessor who specializes in colorectal surgery. The Assessor had concerns regarding the Respondent's care, specifically in the areas of communication, the consent process, and measures taken to protect the Complainant's privacy and dignity. The Assessor concluded that the care did not indicate a lack of judgement or deficiency in knowledge. The Assessor did not find that the Respondent's touching of the Complainant was abusive or inappropriate.

Concern that the Respondent inappropriately, roughly, and forcefully touched and rubbed the Complainant's vaginal area

The Respondent conducted an indicated medical procedure. The Assessor did not find anything in the Complainant's report that suggested the Respondent's actions were any more than cleansing of the genital area. The Committee concluded that a referral to the Discipline Committee was not appropriate in all the circumstances. However, it was concerned that the

Respondent was deficient in the areas of communication, consent, privacy, boundaries, and medical record keeping.

The Respondent has received prior complaints raising concerns about failing to communicate with patients adequately about procedures and examinations. The Respondent noted that he had the Complainant sign a consent form. A signed consent form does not suffice according to the College's policy, *Consent to Treatment*. The Complainant stated that she did not read the form and simply signed it. The Respondent did not elaborate on or document what he discussed with the Complainant when obtaining consent. Given the circumstances, the Committee had concerns that the Respondent did not have a full consent discussion with the Complainant and did not obtain the Complainant's informed and valid consent.

The Complainant disrobed behind two privacy drapes in the presence of both the Respondent and a male nurse. In the Committee's view, this was insufficient to ensure proper privacy for the Complainant. The Respondent additionally acknowledged bringing up nationality and religion in his interaction with the Complainant. This would normally be viewed as overstepping normal boundaries of communication and likely contributed to a patient's discomfort.

The Respondent's record keeping, including his consultation letter, was inadequate. It was not possible to determine from the record whether the Respondent conducted a sigmoidoscopy.