

**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. Adam Seth Fogel (CPSO #112115)
(the Respondent)**

INTRODUCTION

The Respondent saw the Complainant, who was a minor at the time, in the Emergency Department (ED) for a worsening headache. The Respondent carried out a physical examination, and, in turn, offered to provide immediate follow-up as the Complainant was having difficulty getting in to see her family physician. The Complainant agreed.

Over a period of a month and a half, the Respondent and the Complainant exchanged multiple text messages and a number of telephone calls. At that point, unbeknownst to the Complainant, the Respondent was providing care through his independent family practice clinic. When the Complainant experienced a worsening headache again, the Respondent advised her to see him in the ED where he carried out an annual physical examination.

The Complainant was concerned about the examinations and her medical records and ended the physician-patient relationship with the Respondent. She contacted the College of Physicians and Surgeons of Ontario (the College) to express concerns about the Respondent's care and conduct.

COMMITTEE'S DECISION

A General Panel of the Committee considered this matter at its meetings of September 20 and September 26, 2023. The Committee required the Respondent to appear before a Panel of the Committee to be cautioned regarding boundary violations, and maintaining distinction between primary care medicine (i.e., annual physical examinations) and emergency department care.

The Committee also accepted the Respondent's undertaking, which included practice restriction (practice monitoring), posting a sign and notifying patients regarding the restriction, clinical supervision, professional education, and reassessment of his practice.

COMMITTEE'S ANALYSIS

As part of this investigation, the Committee retained Assessor 1 who specializes in emergency medicine and, subsequently, Assessor 2 who is a family medicine (emergency medicine) specialist. The Committee agrees with Assessor 2's final

conclusions that performing an annual physical examination is not part of standard practice of an emergency medicine physician. The Respondent's decision to do so demonstrated a lack of situational and environmental awareness of the ED's capacity, volume, and patient flow. Additionally, the examinations of the Complainant's breast and genital areas could have been deferred or omitted given the Complainant's reported symptoms in the ED setting.

The Respondent's care of the Complainant involved concurrent provision of emergency and primary care, where medical access was limited in a COVID-19-epidemic environment. The Respondent acknowledged that care cannot be blended between emergency medicine patients and patients of his own clinic and that, he recognized how this contributed to a misunderstanding about the nature and purpose of the examination. He also confirmed that he discontinued utilizing text messages for patient communication to ensure that professional boundaries are clearly drawn.

The Committee concluded that inducting the Complainant into the Respondent's primary care practice without her knowledge nor choice to decline enrollment, and the follow-up communications were inappropriate. While all text messages appeared to be related to the Complainant's medical care, the Committee was of the view that the interactions were excessive, particularly the number of text messages. The Respondent should not have been involved past the Complainant's initial ED visit. He demonstrated poor judgment with respect to professional boundaries and with respect to communications. This lapse in judgment was significant and noted by both Assessors. Therefore, the Committee required the Respondent to appear before a Panel of the Committee to be cautioned with respect to boundary violations, and maintaining distinction between primary care medicine (i.e., annual physical examination) and emergency department care.

This is a summary of the Committee's decision as it relates to the caution disposition.