

SUMMARY

DR. LEILA KASRAI (CPSO# 68235)

1. Disposition

On January 24, 2018, the Inquiries, Complaints and Reports Committee (the Committee) required plastic surgeon Dr. Kasrai to appear before a panel of the Committee to be cautioned with respect to posting photographs on her website without a patient's consent and regarding her failure to adequately file and label patient photographs.

The Committee also issued advice to Dr. Kasrai regarding her breach of the Advertising Regulation by posting before-and-after photographs on her website, as they are considered testimonials.

2. Introduction

A patient complained to the College that Dr. Kasrai failed to obtain informed consent by posting before-and-after pictures on her website despite the patient's request not to post or share the pictures that were taken.

Dr. Kasrai responded that the error that occurred was unintentional; she is sorry and has accepted full responsibility for the error. She indicated that she has apologized to the patient and implemented measures to ensure that a similar mistake does not happen in future.

3. Committee Process

A General Panel of the Committee, consisting of public and physician members, met to review the relevant records and documents related to the complaint. The Committee always has before it applicable legislation and regulations, along with policies that the College has developed, which reflect the College's professional expectations for physicians practising in

Ontario. Current versions of these documents are available on the College's website at www.cpsso.on.ca, under the heading "Policies & Publications."

4. Committee's Analysis

The Committee was pleased that Dr. Kasrai took steps to ensure a similar error does not happen in future when she learned that the patient's before-and-after photographs had been posted to her website. Nonetheless, the error that occurred was significant—the photographs were posted not only without the patient's consent, but despite the patient's explicit non-consent. The photographs represent the patient's personal health information. As a physician, Dr. Kasrai has a professional, legal, and ethical obligation to safeguard the confidentiality of such information. She failed to do so in this case.

An office administration error contributed to this occurrence, in that the photographs were apparently misfiled. The Committee recognized that Dr. Kasrai may not have misfiled the photographs herself, but pointed out that it is the physician's responsibility to ensure that patient records and personal health information are accurately maintained by administrative staff. In this case, an apparent office administration error had serious consequences.

For these reasons, the Committee decided to caution Dr. Kasrai.

The Committee disagreed with Dr. Kasrai's position that the use of before-and-after photographs on her website does not constitute a testimonial and for this reason provided advice to her related to the Advertising Regulation (Part II, Advertising, Ontario Regulation 114/94, made under the *Medicine Act, 1991*).