

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Miguel Marc Joseph Bonin, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity and any information that would disclose the identity of any patients whose names are disclosed at the hearing or in the Statement of Facts and Admission or any other document filed at the hearing under subsection 45(3) of the Health Professions Procedural Code (the “Code”), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, as amended.

Subsection 93(1) of the Code, which is concerned with failure to comply with these orders, reads:

Every person who contravenes an order made under ... section 45 or 47... is guilty of an offence and on conviction is liable,

(a) in the case of an individual to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence; or

(b) in the case of a corporation to a fine of not more than \$50,000 for a first offence and not more than \$200,000 for a second or subsequent offence.

Indexed as: Bonin, M.M.J. (Re)

**THE DISCIPLINE COMMITTEE OF THE COLLEGE
OF PHYSICIANS AND SURGEONS OF ONTARIO**

IN THE MATTER OF a Hearing directed
by the Inquiries, Complaints and Reports Committee of
the College of Physicians and Surgeons of Ontario
pursuant to Section 26(1) of the **Health Professions Procedural Code**
being Schedule 2 of the ***Regulated Health Professions Act, 1991***,
S.O. 1991, c. 18, as amended.

B E T W E E N:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. MIGUEL MARC JOSEPH BONIN

PANEL MEMBERS:

DR. M. GABEL (CHAIR)
S DAVIS
DR. W. KING
S. BERI
DR. M. DAVIE

Hearing Date:	January 16, 2012
Decision Date:	January 16, 2012
Release of Written Reasons:	February 22, 2012

PUBLICATION BAN

DECISION AND REASONS FOR DECISION

The Discipline Committee (the “Committee”) of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on January 16, 2012. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty and costs order with written reasons to follow.

THE ALLEGATIONS

The Notice of Hearing alleged that Dr. Miguel Marc Joseph Bonin committed an act of professional misconduct:

1. under paragraph 1(1)33 of O. Reg. 856/93, in that he has engaged in conduct or 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
2. 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 (the “Code”), in that he engaged in the sexual abuse of a patient.

RESPONSE TO THE ALLEGATIONS

Dr. Bonin pleaded no contest to the first allegation in the Notice of Hearing, that he engaged in conduct or 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. Counsel for the College withdrew the second allegation of professional misconduct.

When a plea of “no contest” is entered, Rule 3.02(1) of the Rules of the Discipline Committee provides as follows:

3.02(1) Where a member enters a plea of no contest to an allegation, the member consents to the following:

- (a) that the Discipline Committee can accept as correct the facts alleged against the member on that allegation for the purposes of the proceeding only;
- (b) that the Discipline Committee can accept that those facts constitute professional misconduct or incompetence or both for the purposes of the proceeding only; and
- (c) that the Discipline Committee can dispose of the issue of what finding ought to be made without hearing evidence.

FACTS AND EVIDENCE

The following Statement of Facts and Admission was filed as an exhibit and presented to the Committee:

PART 1 - FACTS

1. Dr. Bonin is a family physician in Sudbury, Ontario. His comprehensive family practice includes, but is not limited to, surgical assisting and referral prenatal and maternity care to which he devotes the majority of his time.

Patient A

2. Patient A was referred to Dr. Bonin for prenatal and maternity care by her family doctor in 2003, 2005 and 2007. During an appointment in 2007, in the presence of Patient A's common law partner, Patient A reports that Dr. Bonin stated "isn't this like a dream or a fantasy that you're getting felt up with two in the same room".

Patient B

3. Patient B was referred to Dr. Bonin for prenatal and maternity care by her family doctor in 2007. Patient B reports that Dr. Bonin made inappropriate comments during vaginal exams that made her uncomfortable. During an exam Patient B reports that Dr. Bonin said to her a comment like, "you like it dirty, you like it rough". Patient B reports

that Dr. Bonin additionally commented to her, “I became this kind of doctor so that I could see pretty women in my office”.

Patient C

4. Patient C was referred to Dr. Bonin for prenatal and maternity care by her family doctor in 2007 when she was pregnant with her first child. Patient C reports that Dr. Bonin asked her how often she has sex with her husband and questioned how many times she climaxes. Patient C reports that while being educated on the subject of breastfeeding, Dr. Bonin told her that she was well endowed and has a very nice cup size.

Patient D

5. Patient D was provided primary care with Dr. Bonin between 2000 and 2009. Patient D reports that in 2003, during her first pap smear, when she was approximately twenty two years old, Dr. Bonin told her to relax, lay back and think about her boyfriend.

6. In 2009, Patient D was uncomfortable and began to bring her boyfriend with her to her prenatal appointments with Dr. Bonin. Patient D reports that on one occasion, during a prenatal appointment, when her boyfriend was not with her Dr. Bonin inquired where her boyfriend was. Patient D reports that she told Dr. Bonin that her boyfriend was out of town and Dr. Bonin said: “oh what time should you be expecting me tonight?”

ADMISSION

7. Dr. Bonin pleads no contest to the facts as set out above and admits that the conduct described constitutes acts or omissions relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonorable or unprofessional.

FINDING

The Committee accepted as true all of the facts set out in the Statement of Facts and Admission. Having regard to these facts, the Committee found that Dr. Bonin committed an act of professional misconduct, in that he has engaged in conduct or 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.

PENALTY AND REASONS FOR PENALTY

Counsel for the College and counsel for the member made a joint submission as to an appropriate penalty and costs order, which included: a suspension; terms, conditions and limitations on Dr. Bonin's certificate of registration that include a requirement that a monitor attend all his professional encounters and interactions with female patients; a reprimand; and an order that Dr. Bonin pay costs to the College for two days of hearings at the tariff rate. (This included costs of a one-day hearing of an unsuccessful motion for severance by the member that was heard by another panel of the Committee.)

The Committee was mindful of the principles underlying the ordering of the penalty. These include public protection, an expression of the profession's abhorrence of the physician's behaviour, the maintenance of public confidence in the integrity of the process, general and specific deterrence and, where appropriate, rehabilitation of the member. The Committee was also aware of the extremely high bar that the courts have established for overturning a jointly proposed penalty.

The Committee considered both aggravating and mitigating factors. Aggravating factors include that Dr. Bonin made inappropriate and objectifying comments to multiple female patients over a period of years during examinations, some of which were intimate. Mitigating factors are that Dr. Bonin's plea of no contest reduced the time and expense of the hearing and spared the complainants the further distress of having to testify; that he successfully completed the College's boundaries course; and that he lacked any prior discipline history. The Committee also considered the multiple letters from Dr. Bonin's colleagues and patients, each of whom was aware of the allegations against him, and each of whom was extremely supportive of him. The Committee reviewed the prior cases that were put before it that involved similar facts, and was satisfied that the proposed penalty was within the range of the penalties in these cases.

The Committee was confident that the substantial suspension and the imposition of terms, conditions and limitations on his certificate of registration would constitute specific deterrence to Dr. Bonin and general deterrence to the profession. The requirement that a health professional monitor all encounters with female patients would serve to protect the public from repetition of Dr. Bonin's inappropriate behaviour. The public reprimand would further emphasize the disapproval of the profession of Dr. Bonin's conduct and send a message to him that a repetition of this sort of conduct would not be tolerated. It would also demonstrate to the public that the profession will not tolerate inappropriate behaviour of this sort. Public confidence in the fairness of the process would be further bolstered by the inclusion of the results of this proceeding on the register.

The Committee considered the proposed costs order to be appropriate in light of the two days of hearings.

ORDER

Therefore, the Committee ordered and directed that:

1. the Registrar suspend Dr. Bonin's certificate of registration for a period of three (3) months, to commence immediately.
2. the Registrar impose the following terms, conditions and limitations on Dr. Bonin's certificate of registration:

Practice Monitoring

- (i) With the exception of acting as a surgical assistant to a certified surgeon (as detailed below), Dr. Bonin shall not engage in any professional encounter or interaction with any female person except in the presence of a monitor;
- (ii) That monitor shall be a member of a health profession pursuant to the terms of the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18 as amended, who is acceptable to the College of Physicians and Surgeons (the "College");
- (iii) the Monitor must remain in the examination or consulting room at all times during all professional encounters with all female patients;

- (iv) the Monitor is required to carefully observe all physical examinations of all female patients, including but not limited to internal examinations of female patients;
 - (v) the Monitor is required to maintain a log of all female patient encounters and that the log shall provide the name of the female patient, and the purpose and date of the appointment. The Monitor will sign and date the corresponding entry on the female patient's medical record;
 - (vi) Dr. Bonin shall post a sign in his office and consulting rooms notifying patients of subparagraphs (i) and (ii) above;
 - (vii) If Dr. Bonin acts as a surgical assistant to a certified surgeon who is operating upon a female patient, he must be in the presence of a Regulated Health Professional throughout the entirety of the encounter with the female patient.
 - (viii) Dr. Bonin shall keep the College updated with respect to all locations where he acts as a surgical assistant. All Chief of Staff (s) and surgeon(s) whom he assists shall sign a notice advising that they are aware of this order and specifically clause (vii).
 - (ix) Dr. Bonin shall provide his irrevocable consent to the College to make appropriate enquiries of the Ontario Health Insurance Plan and/or any person or institution who may have relevant information, for the purposes of monitoring and enforcing his compliance with the terms of this Order; and
 - (x) Dr. Bonin shall submit to, and not interfere with, unannounced inspections of his office(s) and practice(s) and patient charts by a College representative for the purposes of monitoring and enforcing his compliance with the terms of this Order.
3. Dr. Bonin appear before the panel to be reprimanded.
 4. Dr. Bonin pay to the College costs in the amount of \$7,300.00, within 90 days of the date of this Order.
 5. the results of this proceeding to be included in the register.

At the conclusion of the hearing, Dr. Bonin waived his right to an appeal under subsection 70(1) of the Code and the Committee administered the public reprimand.