

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL*

B E T W E E N:

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

PATRICK BRIAN PHILLIPS

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE OF THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO has referred to the Ontario Physicians and Surgeons Discipline Tribunal (“the Tribunal”) the allegation that Dr. Patrick Brian Phillips (“Dr. Phillips”), a member of the College, has committed an act of professional misconduct:

1. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”), in that he 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
2. under paragraph 1(1)2 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/83”), in that he has failed to maintain the standard of practice of the profession.

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE OF THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO has also referred to the Tribunal the allegation that Dr. Phillips is incompetent as defined by subsection 52(1) of the Code.

Further information about the allegations is contained in Schedule “A” to this notice of hearing.

A PANEL OF THE TRIBUNAL WILL HOLD A HEARING under the authority of sections 38 to 56 of the Health Professions Procedural Code for the purposes of deciding whether Dr. Phillips has committed an act or acts of professional misconduct or is incompetent. The hearing will be held at the College of Physicians and Surgeons of Ontario, 80 College Street, Toronto, Ontario or such other venue as the College may advise, on a date to be determined after consultation between College counsel and Dr. Phillips or his counsel, and fixed by the Tribunal Office.

* The Ontario Physicians and Surgeons Discipline Tribunal is the Discipline Committee established under the Health Professions Procedural Code.

IF DR. PHILLIPS DOES NOT ATTEND AT THE HEARING, the Tribunal panel may proceed in his absence and he will not be entitled to any further notice in the proceeding.

IF THE TRIBUNAL PANEL FINDS that Dr. Phillips has committed an act or acts of professional misconduct or is incompetent, the panel may make one or more of the following orders authorized under subsections: 51(2), (4.1), (4.2) (5.2) and 52(2) of the Code

Orders

51(2) If a panel finds a member has committed an act of professional misconduct, it may make an order doing any one or more of the following:

1. Directing the Registrar to revoke the member's certificate of registration.
2. Directing the Registrar to suspend the member's certificate of registration for a specified period of time.
3. Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time.
4. Requiring the member to appear before the panel to be reprimanded.
5. Requiring the member to pay a fine of not more than \$35,000 to the Minister of Finance.
- 5.1 If the act of professional misconduct was the sexual abuse of a patient, requiring the member to reimburse the College for funding provided for that patient under the program required under section 85.7.
- 5.2 If the panel makes an order under paragraph 5.1, requiring the member to post security acceptable to the College to guarantee the payment of any amounts the member may be required to reimburse under the order under paragraph 5.1.

No gender-based terms, conditions, limitations

(4.1) In making an order under paragraph 3 of subsection (2), a panel shall not make any order directing the Registrar to impose any gender-based terms, conditions or limitations on a member's certificate of registration.

Interim suspension of certificate

(4.2) The panel shall immediately make an interim order suspending a member's certificate of registration until such time as the panel makes an order under subsection (5) or (5.2) if the panel finds that the member has committed an act of professional misconduct,

- (a) under clause (1)(a) and the offence is prescribed for the purposes of clause (5.2)(a) in a regulation made under clause 43(1)(v) of the Regulated Health Professions Act, 1991;
- (b) under clause (1)(b) and the misconduct includes or consists of any of the conduct listed in paragraph 3 of subsection (5); or
- (c) by sexually abusing a patient and the sexual abuse involves conduct listed under subparagraphs 3 i to vii of subsection (5).

Mandatory revocation

(5.2) The panel shall, in addition to anything else the panel may do under subsection (2), reprimand the member and revoke the member's certificate of registration if,

- (a) the member has been found guilty of professional misconduct under clause (1) (a) and the offence is prescribed in a regulation made under clause 43(1)(v) of the Regulated Health Professions Act, 1991; or
- (b) the member has been found guilty of professional misconduct under clause (1)(b) and the misconduct includes or consists of any of the conduct listed in paragraph 3 of subsection (5).

Order

52(2) If a panel finds a member is incompetent, it may make an order doing any one or more of the following:

- 1. Directing the Registrar to revoke the member's certificate of registration.
- 2. Directing the Registrar to suspend the member's certificate of registration.
- 3. Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified period of time or indefinite period of time.

THE TRIBUNAL PANEL MAY, under subsection 53.1 of the Code, make an order requiring Dr. Phillips to pay all or part of the College's costs and expenses.

THE COLLEGE INTENDS TO INTRODUCE as business records, under section 35 of the *Evidence Act*, any writings or records that were made in the usual and ordinary course of business. Without limiting the generality of the foregoing, the College intends to introduce as business records the medical and hospital charts related to the patient care that is the subject of the allegations.

Dr. Phillips is entitled to disclosure of the evidence against him and of other information in the College's knowledge or possession. To obtain disclosure, Dr. Phillips or his counsel or agent should contact the Legal Office of the College of Physicians and Surgeons, 80 College Street, Toronto, Ontario, M5G 2E2, telephone (416) 967-2600 or 1-800-268-7096.

Dr. Phillips must also make disclosure in accordance with Rule 7.02 of the Rules of the Ontario Physicians and Surgeons Discipline Tribunal, which states as follows:

7.02(1) Each party to a hearing shall disclose to the other party the existence of every document and thing that the party, or a witness called by or on behalf of the party, may seek to adduce in evidence or put to any witness at a hearing.

7.02(2) Disclosure by the member shall be made in advance of the pre-hearing conference, not later than sixty (60) days following disclosure by the College or such other time as a case management chair or the pre-hearing conference chair orders, and in any case, for materials other than expert reports, at least thirty (30) days before the commencement of the hearing.

7.02(3) Where a party, after making disclosure, comes into possession or control of or obtains power over another document or thing that the party may seek to adduce in evidence or put to any witness at a hearing, the party shall forthwith disclose to the party opposite the existence of the document or thing, and shall produce a copy of it, if requested, under rule 7.03 below.

7.02(4) If a party fails to comply with the provisions of Rule 7.02(1), (2) or (3), the party may not seek to adduce the document or thing in evidence, or put the document or thing to any witness, without the consent of the other party or leave of the Ontario Physicians and Surgeons Discipline Tribunal, which may be given on such terms and conditions as the Ontario Physicians and Surgeons Discipline Tribunal considers just.

Date: September 27, 2021

“signature on original”

Chair,
Inquiries, Complaints and Reports Committee

TO: Dr. Patrick Brian Phillips
Englehart & District Hospital
61 5th St
Englehart ,ON P0J 1H0

SCHEDULE “A”

1. Dr. Patrick Brian Phillips (“Dr. Phillips”) is an family and emergency medicine physician practicing in Englehart Ontario.
2. Between approximately August 2020 and September 2021, Dr. Phillips engaged in disgraceful, dishonourable or unprofessional conduct and/or failed to maintain the standard of practice of the profession in relation to his communications, including but not limited to communications on social media and other digital platforms, regarding the COVID-19 pandemic and related issues. This includes but is not limited to making misleading, incorrect or inflammatory statements about vaccinations, treatments and public health measures for COVID-19. Dr. Phillips is also incompetent in relation to his communications, outlined above.
3. In approximately June of 2021, Dr. Phillips engaged in disgraceful, dishonourable or unprofessional conduct in relation to disclosing College investigative information, including by posting information online and failing to remove this information upon request.
4. Dr. Phillips engaged in disgraceful, dishonourable or unprofessional conduct in failing to cooperate with the College’s investigation, including by failing to provide information in response to written inquiries.

ADDITIONAL INFORMATION ABOUT THE ALLEGATIONS AGAINST DR. PHILLIPS WILL BE PROVIDED IN ADVANCE OF THE HEARING.

**ONTARIO PHYSICIANS AND SURGEONS
DISCIPLINE TRIBUNAL**

NOTICE OF HEARING

**COLLEGE OF PHYSICIANS AND
SURGEONS OF ONTARIO**

Legal Office
80 College Street
Toronto, Ontario M5G 2E2

Ruth Ainsworth

Tel: 416-967-2600
Fax: 416-967-2647
Email: rainsworth@cpsso.on.ca

Carolyn Silver

Tel: 416-967-2600
Fax: 416-967-2647
Email: csilver@cpsso.on.ca

Counsel for the College of Physicians and
Surgeons of Ontario