

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

**B E T W E E N:**

**COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

**- and -**

**KARIN ELAINE KERFOOT**

**NOTICE OF HEARING**

**THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE OF THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO** has referred to the Discipline Committee of the College the allegation that Dr. Karin Elaine Kerfoot (“Dr. Kerfoot”), a member of the College, has committed an act of professional misconduct:

1. 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 she engaged in sexual abuse of a patient; and
2. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”), in that she 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.

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

**A PANEL OF THE DISCIPLINE COMMITTEE WILL HOLD A HEARING** under the authority of sections 38 to 56 of the Code for the purposes of deciding whether Dr. Kerfoot has committed an act or acts of professional misconduct. 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. Kerfoot or her counsel, and fixed by the Hearings Office.

**IF DR. KERFOOT DOES NOT ATTEND AT THE HEARING**, the discipline panel may proceed in her absence and she will not be entitled to any further notice in the proceeding.

**IF THE PANEL FINDS** that Dr. Kerfoot has committed an act or acts of professional misconduct, the panel may make one or more of the following orders authorized under subsections 51(2), (4.1), (4.2), (5) and (5.2) 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).

### **Orders Relating to Sexual Abuse**

(5) If a panel finds a member has committed an act of professional misconduct by sexually abusing a patient, the panel shall do the following in addition to anything else the panel may do under subsection (2):

1. Reprimand the member.

2. Suspend the member's certificate of registration if the sexual abuse does not consist of or include conduct listed in paragraph 3 and the panel has not otherwise made an order revoking the member's certificate of registration under subsection (2).
3. Revoke the member's certificate of registration if the sexual abuse consisted of, or included, any of the following:
  - i. Sexual intercourse.
  - ii. Genital to genital, genital to anal, oral to genital or oral to anal contact.
  - iii. Masturbation of the member by, or in the presence of, the patient.
  - iv. Masturbation of the patient by the member.
  - v. Encouraging the patient to masturbate in the presence of the member.
  - vi. Touching of a sexual nature of the patient's genitals, anus, breasts or buttocks.
  - vii. Other conduct of a sexual nature prescribed in regulations made pursuant to clause 43(1)(u) of the Regulated Health Professions Act, 1991.

#### **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).

**THE DISCIPLINE PANEL MAY**, under subsection 53.1 of the Code, make an order requiring Dr. Kerfoot 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. Kerfoot is entitled to disclosure of the evidence against her and of other information in the College's knowledge or possession. To obtain disclosure, Dr. Kerfoot or her 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. Kerfoot must also make disclosure in accordance with Rule 7.02 of the Rules of the Discipline Committee of the College of Physicians and Surgeons of Ontario, which states as follows:

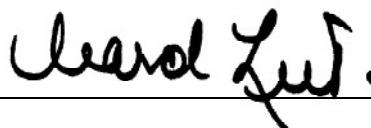
7.02(1) Each party to a hearing shall disclose to the other party the existence of every document and thing that the party, or a witness called by or on behalf of the party, may seek to adduce in evidence or put to any witness at a hearing.

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 Discipline Committee, which may be given on such terms and conditions as the Discipline Committee considers just.

Date: February 12, 2019

A handwritten signature in black ink, appearing to read "Cheryl Ziff", is written over a horizontal line.

Chair,  
Inquiries, Complaints and Reports Committee Panel

TO: Dr. Karin Elaine Kerfoot

## **SCHEDULE “A”**

1. Dr. Karin Kerfoot (“Dr. Kerfoot”) is a psychiatrist, who during the relevant time was practising in London, Ontario.
2. Patient A was Dr. Kerfoot’s patient from approximately January 2015 to June 2016. Dr. Kerfoot engaged in sexual abuse of and/or disgraceful, dishonourable or unprofessional conduct in respect of Patient A, including by:
  - (a) engaging in sexual intercourse, oral sex, and kissing with Patient A, and
  - (b) engaging in sexual and/or inappropriate communications with Patient A, including making sexual and/or inappropriate comments to Patient A and sending inappropriate and/or sexual messages and/or photographs to Patient A.
3. Dr. Kerfoot engaged in disgraceful, dishonourable or unprofessional conduct in violating appropriate doctor-patient boundaries in respect of Patient A, including by going out with Patient A to restaurants and/or bars and/or nightclubs, shopping with Patient A, travelling with Patient A, and/or sharing overnight accommodations with Patient A.
4. Dr. Kerfoot engaged in disgraceful, dishonourable or unprofessional conduct in failing to cooperate with the College investigation and/or being dishonest regarding her conduct involving Patient A to the hospital where she practised and/or the College.

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

	<p><b>DISCIPLINE COMMITTEE OF THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO</b></p>
	<p><b>NOTICE OF HEARING</b></p>
	<p><b>COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO</b> Legal Office 80 College Street Toronto, Ontario M5G 2E2</p> <p><b>Morgana Kellythorne</b> Tel: (416) 967-2600 Fax: (416) 967-2647</p> <p>Counsel for the College of Physicians and Surgeons of Ontario</p>