

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Tribunal File No.: 22-002

Date: December 20, 2022

Ms. Sherry Liang (chair)
Dr. Allan Kaplan
Dr. Roy Kirkpatrick
Mr. Peter Pielsticker
Ms. Linda Robbins

BETWEEN:

College of Physicians and Surgeons of Ontario

- and -

Dr. Simon Jonathan O'Brien

ORDER

The Tribunal heard this matter on December 20, 2022, by videoconference.

On reading the Notice of Hearing dated January 13, 2022, the Agreed Statement of Facts and on hearing the submissions of counsel for the College of Physicians and Surgeons of Ontario and counsel for Dr. O'Brien,

1. **The Tribunal finds** that Dr. O'Brien has committed an act of professional misconduct under:
 - a. paragraph 1(1)2 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, in that he failed to maintain the standard of practice of the profession.
 - b. paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, 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.
2. **The Tribunal orders** Dr. O'Brien to attend before the panel to be reprimanded;
3. **The Tribunal directs** the Registrar to suspend Dr. O'Brien's certificate of registration for eight months commencing January 13, 2023 at 12:01 a.m.; and

4. **The Tribunal orders** Dr. O'Brien to pay the College costs in the amount of \$6,000 by January 20, 2023.

RESTRICTION ON PUBLICATION

The Tribunal ordered, under ss. 45-47 of the Health Professions Procedural Code, that no one may publish or broadcast the names or any information that would identify patients. There may be significant fines for breaching this order. For a complete copy of the non-publication order, please contact tribunal@opsdt.ca.

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College of Physicians and Surgeons of Ontario

- and -

Dr. Simon Jonathan O'Brien

The Tribunal delivered the following Reprimand
by videoconference on Tuesday, December 20, 2022.

*****NOT AN OFFICIAL TRANSCRIPT*****

Dr. O'Brien,

You have admitted to having failed to maintain the standard of practice of the profession and engaging in disgraceful, dishonourable or unprofessional conduct during a prolonged interaction with a patient.

Your misconduct included boundary violations, alterations in the patient's chart at the patient's request, failure to terminate the patient relationship earlier and failure to seek professional support in dealing with a patient whose management was challenging to you. You showed a lack of judgment by receiving and reviewing confidential documents from the patient without discouraging this behaviour, prescribing drugs inappropriately to a family member of your patient and failing to notify the Ministry of Transportation when you had reasonable grounds to suspect that your patient should not be driving.

We note your efforts to educate yourself about professional boundaries, your willingness to take responsibility for your actions and your strong support within your community.

It appears from the many letters of support we received that this episode is an aberration in an otherwise exemplary life of service in the medical profession. We trust that the insights you have gained through this process will help you resume that exemplary service after your suspension.

While we have decided to accept the joint submission on penalty, we acknowledge the unique and extraordinarily challenging circumstances, including threats to your and your family's safety, which were the background to your professional misconduct.