

PROVINCE OF NOVA SCOTIA)
CITY OF HALIFAX)

IN THE MATTER OF: **The College of Physicians and Surgeons of Nova Scotia**

- and -

IN THE MATTER OF: **Dr. James Leahy**

NOTICE OF HEARING

You are hereby notified that the College of Physicians and Surgeons of Nova Scotia (“College”) will conduct a hearing to consider allegations regarding your professional misconduct, incompetence and incapacity pursuant to the *Medical Act*, S.N.S. 2011, c. 38 (“*Medical Act, 2011*”) and its predecessor the *Medical Act*, S.N.S. 1995-1996, c. 10.

The hearing will be held at the offices of McInnes Cooper commencing on a date to be determined and continuing thereafter as directed by the Hearing Committee.

Your presence at the stated time of the hearing is required. You may attend with legal counsel or other representative of your choice, and may present evidence or witnesses on your behalf.

TAKE NOTICE that if you do not attend this hearing, the Hearing Committee may proceed in your absence and you will not be entitled to any further notice of proceedings.

Any documentary evidence to be used by the College at the hearing will be made available to you in advance of the hearing in accordance with the *Medical Act, 2011*. You have all the rights set out in section 53 of the *Medical Act, 2011* as well as the disclosure obligations set out in the same section.

The Hearing Committee will consider the following matters.

That being registered under the *Medical Act, 2011* and the *Medical Act, 1995-96* and being a physician in the Province of Nova Scotia, it is alleged that:

1. With respect to the care provided to Patient A from February 2014 to October 2014, you:

- a. violated accepted standards of practice, including the College's *Professional Standard Regarding Disruptive Behaviour by Physicians* when you used profane and disrespectful language in speaking to and about Patient A;
 - b. breached professional boundaries with a patient by having a medical appointment on July 7, 2014 with Patient A, who was an unaccompanied minor; and
 - c. breached professional boundaries with a patient by having "secret" discussions with a minor patient, Patient A, without informing that patient's parent of the discussion.
2. With respect to a June 14, 2015 visit to the home of Patient B, you:
- a. violated accepted standards of practice, including the College's *Professional Standard Regarding Disruptive Behaviour by Physicians* when you used profane and inappropriate language, and made inappropriate sexual comments.
3. As demonstrated by a September 2, 2015 practice assessment, you violated the College's *Policy on the Content and Maintenance of Medical Records* by failing to keep adequate medical records.
4. With respect to the care provided to Patient C on January 12, 2018, you:
- a. violated accepted standards of practice, including the College's *Professional Standard Regarding Disruptive Behaviour by Physicians* when you used inappropriate physical force when you attempted to physically restrain him;
 - b. violated accepted standards of practice, including the College's *Professional Standard Regarding Disruptive Behaviour by Physicians* when you used profane and disrespectful language in speaking to Patient C;
 - c. violated accepted standards of practice, including the College's *Professional Standard Regarding Disruptive Behaviour by Physicians* when you locked Patient C in his room;
 - d. failed to demonstrate the standard expected of physicians when you did not attempt to de-escalate the situation and negotiate with Patient C to calm him down;
 - e. failed to demonstrate the standard expected of physicians when you attempted to singlehandedly restrain Patient C, thereby putting yourself and Patient C at risk;
 - f. failed to demonstrate good judgment when you asked the police to leave the nursing home;

- g. failed to document that you locked Patient C in his room;
 - h. failed to exercise good judgement when you chose to not call the Care By Design doctor-on-call when the situation with Patient C escalated; and
 - i. failed to demonstrate any insight into or take responsibility for how your behaviour and decision-making processes put Patient C and staff at risk.
5. You failed to act upon, and abide by, previous advice from the College about unprofessional behaviour, including the following advice:
- a. 2013 - be more tactful when it comes to communication with patients regarding sexual health;
 - b. 2001- maintain a professional demeanor in dealings with health care professionals and refrain from the use of profanities in the workplace;
 - c. 1996 - improve communications skills and take training in effective communication to improve performance in this area;
 - d. 1992 – put more effort into establishing better communications with patients.

AND THAT THE ABOVE ALLEGATIONS CONSTITUTE PROFESSIONAL MISCONDUCT, INCOMPETENCE AND/OR INCAPACITY.

“Professional Misconduct” is defined in the *Medical Act, 2011* to include:

Such conduct or acts in the practice of medicine that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional and that, without limiting the generality of the foregoing, may include breaches of

- (i) the Code of Ethics approved by the Council,
- (ii) the accepted standards of the practice of medicine, and
- (iii) the *Medical Act*, the regulations and policies approved by the Council;

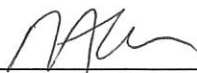
“Incompetence” is defined in the *Medical Act, 2011* to mean:

The lack of competence in the respondent’s care of an individual or delivery of medical services that, having regard to all the circumstances, rendered the respondent unsafe to practise at the time of such care of the individual or delivery of medical services or that renders the respondent unsafe to continue in practice without remedial assistance;

"Incapacity" is defined in the *Medical Act, 2011* to mean:

The status whereby a member suffers or suffered from a medical, physical, mental or emotional condition, disorder or addiction that renders or rendered the member unable to practise with competence, or that may endanger or have endangered the health or safety of individuals.

Dated at Halifax, Nova Scotia, this 5th day of September, 2018.



Dr. D.A. Gus Grant
Registrar
College of Physicians and Surgeons of Nova Scotia