

**THE INVESTIGATION COMMITTEE
THE COLLEGE OF PHYSICIANS AND SURGEONS OF MANITOBA**

IN THE MATTER OF: *The Regulated Health Professions Act, CCSM, c. R117, Part 8 (“the RHPA”)*

AND IN THE MATTER OF: **Dr. Nihad Nagy William (“Dr. William”), a former member of the College of Physicians and Surgeons of Manitoba (“CPSM”)**

PUBLICATION

TAKE NOTICE that, pursuant to subsection 102(1)(e) and section 105 of the RHPA, the Investigation Committee (“the Committee”) of CPSM has accepted the voluntary surrender of Dr. William’s certificate of registration and certificate of practice and directed that his voluntary surrender and a description of the circumstances that led to the voluntary surrender be made available to the public.

TAKE FURTHER NOTICE that the circumstances set out in this publication were initially referred to the Inquiry Committee by the Investigation Committee on December 16, 2020 pursuant to subsection 102(1)(a) of the RHPA. A hearing before a Panel of the Inquiry Committee was scheduled to commence on June 8, 2021. However, prior to that date the Investigation Committee brought a motion to withdraw the Notice of Inquiry and for a stay of proceedings based on an Agreement and Undertaking from Dr. William that included, among other terms, his permanent and irrevocable undertaking to surrender his registration. The Agreement and Undertaking further involved referral of the matter back to the Investigation Committee to implement the disposition.

TAKE FURTHER NOTICE that the circumstances set out in this publication remain unproven allegations of fact. As such, no findings of professional misconduct have been made with respect to Dr. William.

A. PREAMBLE

Members of CPSM are expected to maintain appropriate boundaries with their patients at all times and in any circumstance. It is further expected that members of CPSM must not sexualize any interaction with a current patient.

The physician-patient relationship is a fiduciary one in which the physician has an obligation to consider first the best interests of the patient. The relationship is founded in trust and characterized by an inherent power imbalance in the relationship. Patients are by definition vulnerable when seeking medical care because they rely on the specialized training and knowledge of members to diagnose and treat them. Moreover, diagnosis and treatment call for patients to allow members to touch parts of their body because of members’ unique ability to provide them with the medical

care they seek. Members must not use their position of power and trust to exploit patients physically, sexually, emotionally, or psychologically.

B. THE RELEVANT CIRCUMSTANCES ARE:

1. Dr. William was at all material times a member of CPSM practicing family medicine.
2. During its investigation, the Investigation Committee obtained the following information:
 - a. Patient A stated the following occurred when she attended Dr. William on December 8, 2018;
 - i. On or about December 8, 2018, she attended Dr. William's office on a walk-in basis in relation to a prescription refill for pain management. Her primary care physician was not available on that date.
 - ii. At Dr. William's direction, and while he was in close physical proximity to and pressed against her, Patient A bent forward, while clothed, to touch her toes.
 - iii. At this time, Dr. William proceeded to touch Patient A in an inappropriate manner, including pressing his body against her body, placing his hands on, and squeezing her waist and pressing his face against the area between her buttocks and vagina.
 - b. In a later encounter with another physician, Patient A disclosed the incident with Dr. William. In accordance with that physician's statutory duty to report, the information was reported to CPSM.
 - c. Dr. William denied Patient A's account of the visit and any allegations of inappropriate conduct.
 - d. Patient B stated the following occurred when she attended Dr. William on June 4, 2019:
 - i. On June 4, 2019, Patient B attended on Dr. William for an assessment of eczema of her elbows.
 - ii. At Dr. William's direction and while he was in close physical proximity to and/or pressed against her, Patient B lowered her pants and underpants such that her buttocks and genital area were bare.
 - iii. Dr. William proceeded to touch Patient B in an inappropriate manner, including putting his arms around her while pressed against her and touching her bare buttocks with his hands.
 - iv. Dr. William then asked Patient B to change locations in his office and stand with her pants and underpants lowered such that her buttocks and genital area

were bare while he remained in close proximity to her, looked at her legs, following which she then pulled up her pants and underpants.

- e. After the visit, Patient B disclosed the incident to a family member who subsequently supported Patient B in making a complaint to Dr. William's clinic and then CPSM.
 - f. Dr. William denied Patient B's account of the visit and any allegations of inappropriate conduct.
3. While under investigation, Dr. William entered a voluntary undertaking to have a chaperone present for all examinations involving female patients.
 4. The Investigation Committee was mindful that the allegations made by Patient A and Patient B would, if proven, clearly represent serious breaches of Dr. William's responsibility to maintain boundaries and would constitute serious sexual boundary violations. Patient A and Patient B both state they suffered significant emotional harm as a result of Dr. William's conduct.
 5. The Investigation Committee resolved on December 16, 2020 that it was in the public interest to refer matters related to Patient A and to Patient B to the Inquiry Committee for a hearing. In so doing, it was satisfied there were reasonable and probable grounds to believe that the alleged misconduct could properly be proved to the requisite standard.
 6. Dr. William did not plead guilty to professional misconduct in the context of any CPSM proceeding in relation to the above circumstances. A contested hearing was scheduled for June 8, 2021. Prior to the commencement of the hearing, the Investigation Committee met on April 5, 2021 and endorsed a proposed resolution, the ultimate effect of which avoided the contested hearing.
 7. The terms of the resolution endorsed by the Investigation Committee and agreed to by Dr. William included referral of the Inquiry matter back to the Investigation Committee to implement the resolution and the requirement that Dr. William permanently surrender his certificate of registration and certificate of practice and never again practice in any regulated health profession in any jurisdiction in Canada or elsewhere as of July 4, 2021. The agreement is irrevocable.
 8. The July 4, 2021 date was chosen as it provided Dr. William time to wind down his practice in accordance with the Standards of Practice of Medicine. In the interim, the Investigation Committee was reassured that Dr. William's current undertaking would remain in effect until his surrender. That undertaking, which was in place pending the outcome of investigation and inquiry proceedings, required Dr. William have a chaperone present for all encounters with female patients.
 9. The Investigation Committee was satisfied its public protection mandate was met as Dr. William will not be able to practice a regulated health profession again. This was considered to potentially offer better protection than the orders available to a Panel of the Inquiry Committee. While an Inquiry Panel can cancel a member's registration, it cannot

preclude that member from applying for reinstatement or from applying for registration in another jurisdiction. Secondly, the Investigation Committee considered that there is a degree of uncertainty respecting outcome in any contested hearing.

10. A factor of significant importance was that both Patient A and Patient B were spared from having to in the context of a contested legal proceeding. Though willing to do so, neither Patient A nor Patient B wanted to testify. That prospect caused them anxiety, and both stated that testifying would be a traumatizing experience. The complainants in this case were consulted and satisfied with the proposed resolution. Their primary concern was that this could happen to another patient in future. Permanent and irrevocable voluntary surrender precludes that eventuality.

Disposition

11. Though there were no findings against Dr. William, and it is acknowledged he continues to deny the allegations of Patient A and Patient B, the Investigation Committee was satisfied this publication is adequate to declare the standards to which members are held.
12. Pursuant to subsection 102(1)(e) of the RHPA, the Investigation Committee resolved to accept Dr. William's voluntary surrender of his registration and certificate of practice in accordance with the terms and conditions set out in an Agreement and Undertaking he signed on April 4, 2021, which include:
 - a. From the date of surrender and forever onward, Dr. William shall refrain from the practice of any regulated health profession, including the practice of medicine, in any jurisdiction in Canada or elsewhere.
 - b. Dr. William will not apply for a license, certificate or equivalent to practice any regulated health profession, including the practice of medicine, in any jurisdiction in Canada or elsewhere at any time in future.
13. In accordance with subsection 105(2) of the RHPA, Dr. William is ordered to pay to CPSM costs in the amount of \$25,000.00.
14. In accordance with subsection 105(3) of the RHPA, the Investigation Committee ordered that Dr. William's name, the fact that he has voluntarily surrendered his registration and certificate of practice, and a description of the circumstances that led to the voluntary surrender be made available to the public.