

THE EXECUTIVE COMMITTEE OF THE COLLEGE OF PHYSICIANS AND SURGEONS OF MANITOBA

IN THE MATTER OF: ***A hearing pursuant to Part 4 of *The Regulated Health Professions Act, CCSM c. R117* (“RHPA”)***

AND IN THE MATTER OF: **Dr. Arcel Bissonnette, a member of College of Physicians and Surgeons of Manitoba (“CPSM”)**

AND IN THE MATTER OF: **Notice of Intention to Consider Cancellation of Certificate of Registration, dated December 13, 2023**

REASONS FOR RESOLUTION AND ORDER OF THE EXECUTIVE COMMITTEE

Members of the Executive Committee (the “Committee”)

Dr. Nader Shenouda, President of CPSM, Chair

Dr. Peter Nickerson

Dr. Charles Penner

Mr. Allan Fineblit LL.B., K.C., Public Representative

Ms. Marvelle McPherson C.M., B.N., R.N. (ret.), Public Representative

Counsel

Michael Triggs, counsel for the Executive Committee

Jocelyne Ritchot, counsel for the Registrar

INTRODUCTION

On November 28, 2023, following a trial before Justice S. Bond of the Manitoba Court of King's Bench, Dr. Arcel Bissonnette ("Dr. Bissonnette") was convicted of five counts of sexual assault (the "Convictions") respecting five separate women. The charges supporting the Convictions arose from incidents occurring between 2001 and 2017. All women were patients of Dr. Bissonnette; all convictions arose out of what they believed were to be clinical examinations.

Justice Bond issued reasons for decision on November 28, 2023 ("Justice Bond's Decision"). As of the date of this hearing Dr. Bissonnette has not been sentenced for these crimes.

On December 13, 2023, the Registrar of the College of Physicians and Surgeons of Manitoba ("CPSM") requested, pursuant to Section 48(3) of the RHPA, that the Executive Committee of CPSM (the "Committee") consider cancelling Dr. Bissonnette's Certificate of Registration (the "Registrar's cancellation request").

By letter dated December 14, 2023, in care of his legal counsel, General Counsel for CPSM advised Dr. Bissonnette that the Registrar's cancellation request was scheduled to be heard on January 17, 2024, at 8:00 am. Dr. Bissonnette was advised that the hearing would be conducted through a virtual platform, however, he could attend in person if he wished to. In the same letter, Dr. Bissonnette was advised of a number of other process-related matters in connection with the hearing, including his ability to file a written submission should that be his desire.

By letter dated January 4, 2024, MLT Aikins, legal counsel for Dr. Bissonnette advised that neither he nor Dr. Bissonnette would attend the hearing. This letter is Dr. Bissonnette's written submission.

Dr. Bissonnette did not dispute that the convictions had been entered by the Court. Dr. Bissonnette advised the Committee that he:

- a) Recognizes the authority of CPSM as set out in Section 48 of *The Regulated Health Professions Act*.

- b) Maintains that he did not have any sexual intent with his examinations of the patients.
- c) Requests that should there be a reversal of the convictions on appeal there should be a corresponding reversal of the cancellation if that is the decision of the Executive Committee.

On January 17, 2024, the Committee convened an in-person hearing to consider the Registrar's cancellation request (the "hearing").

Following the hearing, the Committee deliberated and passed a Resolution and Order canceling Dr. Bissonnette's Certificate of Registration. These are the Committee's reasons for its Resolution and Order.

PROCEDURE AND JURISDICTION

This matter proceeded before the Executive Committee pursuant to the following:

The Regulated Health Professions Act, CCSM c. R117¹:

Cancelled if conviction

48(3) The council may direct the registrar to cancel a member's registration or certificate of practice, or both, if the member has been convicted of an offence that is relevant to his or her suitability to practise, but it must first notify the member that it intends to do so and give him or her the opportunity to make submissions.

Under Section 17(1) of the RHPA and Section 91(b) of CPSM's *Affairs of the College Bylaw*², Council of CPSM has delegated to the Executive Committee the authority to hear matters under Section 48(3) of the RHPA. The Committee was duly constituted in accordance with the RHPA and the *Affairs of College Bylaw*.

¹ <https://web2.gov.mb.ca/laws/statutes/ccsm/pdf.php?cap=r117>

² <https://College.mb.ca/assets/ByLaws/Affairs%20of%20the%20College%20Bylaw.pdf>

The Registrar submitted a “Report of the Registrar under Section 48 of the RHPA” consisting of the following:

- Report to Executive Committee from the Registrar dated December 13, 2023.
- Notice of Intention to Consider Cancellation dated December 13, 2023.
- Justice Bond’s decision, November 28, 2023 (68 pages).
- Disposition sheet.
- Direct Indictment.
- CPSM’s Practice Direction, *Cancellation of Registration or Certificates of Practice Pursuant to Section 48 of the RHPA* (the “Practice Direction”).³

The Registrar filed a written submission setting out her position in relation to the Registrar’s cancellation request. Dr. Bissonnette received the Registrar’s submission and was given the opportunity to both file a written submission as well as make oral submissions at the hearing. Dr. Bissonnette filed a written submission but declined to attend this hearing.

Members of the Committee carefully reviewed the materials filed, the written submissions, and carefully considered the oral submissions of the Registrar.

The Committee finds that the jurisdictional and procedural requirements in the RHPA, the *Affairs of College Bylaw* and the Practice Direction have been met in this case.

After careful review and deliberation, on January 17, 2024, the Committee passed the following resolution:

"Pursuant to Section 48(3) of *The Regulated Health Professions Act*, effective immediately, the Executive Committee of the College of Physicians and Surgeons of Manitoba has canceled the Certificate of Registration of Dr. Arcel Bissonnette,

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<http://www.cpsm.mb.ca/assets/Practice%20Directions/Cancellation%20of%20Registration%20or%20Certificate%20of%20Practice%20Pursuant%20to%20S.%2048%20of%20the%20RHPA.pdf>

who was convicted by the Court of King's Bench on November 28, 2023, of five criminal offences that are relevant to his suitability to practice".

("the Section 48(3) Resolution")

These are the reasons of the Committee in the matter.

FACTUAL BACKGROUND

Dr. Bissonnette was a family physician with a medical practice in the Town of Ste. Anne, Manitoba at the time these offences occurred. Dr. Bissonnette had a Certificate of Registration with CPSM at the time of these events.

On November 5, 2020, CPSM became aware that Dr. Bissonnette had been criminally charged for sexual assaults relating to 6 patients under his care. As such a signed voluntary undertaking was obtained from Dr. Bissonnette to cease practice on November 6, 2020. He was also ordered to cease practice as a condition of his judicial interim release in the criminal proceedings. Dr. Bissonnette has not practiced medicine since then.

In October 2021, CPSM became aware of further allegations of sexual assault. It is those allegations that led to the November 28, 2023, conviction on five counts of sexual assault. The matters underlying Dr. Bissonnette's convictions involved multiple incidents of non-consensual sexual touching, over the course of more than 15 years (from August 2001 to April 2017) during purported medical examinations. The findings and reasons underlying Dr. Bissonnette's convictions are set out in Justice Bond's decision. The matters are summarized as follows:

Count Number	Page Nos. Justice Bond's Decision	Date	Summary
1	31 - 39	August 3, 2001	A sexual assault involving a female patient during purported vaginal and digital rectal examination.
2	39 - 46	Three occasions b/n August 10, 2010, and April 3, 2017	A sexual assault involving a female patient during purported digital rectal examination.
3	46 - 53	One occasion between June 18, 2015, and July 22, 2015	A sexual assault involving a female patient during physical examinations, including inappropriate sexual touching of the vaginal area.
4	53 - 61	Multiple occasions b/n August 23, 2006, and August 19, 2015	A sexual assault involving a female patient during physical examinations, including inappropriate sexual touching of the vaginal area and breasts.
5	61 - 68	February 5, 2015	A sexual assault involving a female patient during purported vaginal examination.

REASONS FOR DECISION

To cancel a Certificate of Registration of a member under Section 48(3) of the RHPA, the following elements must be satisfied:

1. The member has been convicted of an offence relevant to the member's suitability to practice.
2. The member must be notified of the hearing to cancel their Certificate of Registration and be given an opportunity to make representations.
3. The Committee must turn its attention to the matter and exercise its discretion as to whether to cancel the member's licence and registration.

(“the Section 48(3) test”)

Dr. Bissonnette does not dispute the information contained in the Disposition Sheet. This Committee finds that the Convictions on the five counts of sexual assault are sufficiently proven.

As stated above, Dr. Bissonnette was notified of this hearing and was provided the opportunity to make submissions. Written submissions were provided, and Dr. Bissonnette chose not to attend the hearing.

The remaining question is whether the Convictions in this case are relevant to determining Dr. Bissonnette’s suitability to practice medicine.

The Registrar referred the Committee to the decisions under predecessor legislation, *The Medical Act* (the “former Act”), in *Re Jovel*, and *Re Ravesh* under Section 48(3) of the RHPA in which members’ Certificates of Registration were cancelled because of convictions for sexual assault.

In her submissions the Registrar states:

12. The conduct for which Dr. Bissonnette has been convicted demonstrates clear unfitness and cancellation of his registration is required to protect the public from the risk of further misconduct and to maintain public confidence in CPSM’s ability to regulate the profession.

13. The public must feel confident that no member of CPSM will ever misuse their position of trust and authority in the way that Dr. Bissonnette has done. Revocation conveys to both the public and the profession that a physician who exploits a vulnerable patient for their own sexual gratification cannot remain a member of the profession.

In his submission, Dr. Bissonnette stated that he did not have any sexual intent with his examination of his patients.

The Committee notes that a proceeding under Section 48(3) is not an opportunity for a member to relitigate the matter that was before the convicting court. The conviction has

determined as a matter of fact that Dr. Bissonnette sexually assaulted his patients under the guise of a medical examination.

The fact that a member sexual assaulted patients under the guise of a medical examination is relevant to determining the member's suitability to practice medicine.

Our primary reference point was the nature of the conduct underlying the Convictions in this case and how this conduct (summarized earlier in these reasons) reflects on Dr. Bissonnette's suitability to practice. Dr. Bissonnette has been convicted on five counts of sexual assault, arising from his care of these five patients. Whether related to one patient or five, the Committee unhesitatingly finds that these convictions are relevant to suitability to practice.

Such a person is not suitable to practice medicine.

Dr. Bissonnette also submits, if there is a reversal of his conviction that there should be a reversal of the cancellation of his licence.

As stated by Council in *Re Jovel* and *Re Ravesh*, should the criminal conviction underlying the Section 48(3) determination be overturned on appeal, a member may reapply for registration under Part 4 of the RHPA, as in the normal course. This submission is speculative and does not impact the decision the Committee must make.

In the result, the Committee has concluded that all of the elements of the Section 48(3) test have been satisfied.

CONCLUSION

In this case all of the procedural and legal requirements of the Section 48(3) test have been satisfied. The Committee notes that appropriate notices were given, submissions received and carefully considered, and the Member has been convicted of offences that are relevant to his suitability to practise. This is an appropriate case for the exercise of discretion by the Executive Committee under Section 48(3).

DISPOSITION

The Executive Committee directs, per its resolution passed on January 17, 2024, that pursuant to Section 48(3) of *The Regulated Health Professions Act*, the Certificate of Registration of Dr. Arcel Bissonnette, who has been convicted by the Court of King's Bench on November 28, 2023, of criminal offences that are relevant to his suitability to practice, is hereby cancelled.

NOTE

The Regulated Health Professions Act states:

Appeal

49(2) A member whose registration or certificate of practice or both are cancelled under this section may appeal the cancellation to the court, in which case section 39 applies with the necessary changes.

DATED at Winnipeg, Manitoba, the 18th day of January 2024



Dr. Nader Shenouda
President of CPSM, Chair



Dr. Peter Nickerson



Dr. Charles Penner



Mr. Allan Fineblit LL.B., K.C.
Public Representative



Ms Marvelle McPherson C.M., B.N., R.N.
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