

TEXT of PUBLIC REPRIMAND
Delivered on March 24, 2011
in the case of the
COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO
and
DR. CHARLES RANDALL SMITH

We are here today under the authority of the *Regulated Health Professions Act*.

My name is Dr. Marc Gabel, and I will Chair today. I am a physician member of the Discipline Committee and a member of the Council of the College. Sitting with me are Dr. Fay Sliwin, a physician member of the Committee, Dr. Richard Mackenzie, a physician member of the Committee, Dr. Busha Taa (PhD), a public member of Council and the Committee, and Mr. Surdershen Beri a public member of Council and the Committee.

With us today is Mr. Robert Cosman, our independent legal counsel. Mr. Cosman, would you introduce the other participants.

We are here to administer a public reprimand pursuant to an Order of the Committee. We would remind those in the gallery that they should refrain from taking photographs and turn off all recording and other electronic devices.

On February 1 2011, this Panel of the Discipline Committee found that Dr. Charles Randall Smith committed acts of professional misconduct in that he failed to maintain the standard of practice of the medical profession and in that he engaged in conduct or an act or omission relevant to the practice of medicine that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional. We also found that Dr. Smith is incompetent.

The Committee ordered the following penalty: that the Registrar revoke Dr. Smith's certificate of registration effective immediately; that Dr. Smith appear before the Panel to be reprimanded; and the results of the proceeding be included in the Register. As well Dr. Smith was ordered to pay costs of the proceeding.

Dr. Smith was ordered to appear today to receive his public reprimand.

As was noted by Mr. Cosman, Dr. Smith is not here today. The Panel is very disappointed that Dr. Smith has chosen not to appear to receive his reprimand as directed.

While the penalty of revocation is the most severe penalty that this Committee has the legal authority to order in a disciplinary proceeding, the reprimand is also of great significance and carries a meaning that reverberates beyond revocation. This Panel

represents the physicians of Ontario as well as the public, through the public members of College Council. The reprimand is our opportunity to express on behalf of the profession and the public our abhorrence of Dr. Smith's misconduct. Notwithstanding the failure of Dr. Smith to appear in front of the Panel, it is within the purview of this Committee to read the reprimand we would have administered were he in attendance.

We have released the reasons for our decision to the parties. Copies are available to the public today.

What follows is our reprimand:

Dr. Smith, this Panel has heard the uncontested facts concerning your professional misconduct and incompetence and the effects of this behaviour on so many people.

In your practice of forensic pediatric pathology:

- You failed to gather relevant information, undertake appropriate investigations, and properly detail relevant information.
- You expressed opinions about the cause of injuries or death that were either contrary to or not supported by the pathological evidence.
- You expressed erroneous opinions about the cause of death based on non-specific findings and misinterpreted autopsy findings.
- You referenced aspects of the social history of the parents or caregivers of the deceased child which were irrelevant to the pathology.
- You attempted to unfairly shift responsibility for your failures to others.
- You failed to create, maintain and preserve pathology materials relevant to criminal investigations in the manner expected of a pathologist.
- You offered opinions outside of the area of your expertise, and gave evidence that was unbalanced or overly dogmatic.
- You gave opinions that were unscientific, speculative, unsubstantiated and not based on pathological findings.
- You provided opinions to coroners, the police, Crown Attorneys and the Court in a manner that was misleading and unfairly critical of other experts.
- You acted as an advocate in cases rather than expressing an unbiased opinion.
- You failed to adequately prepare for court
- You failed to respond to inquiries from regulating bodies, including the CPSO, with the candour expected of a physician, regarding your involvement in cases under investigation.
- Your many failures compromised the administration of justice and caused harm to many individuals and their families.

You had a duty to the public, to the administration of justice and to your profession. Your failure in all of these respects is abominable to this Panel, to your fellow physicians and, as importantly, to the public.

Your misconduct has resulted in unmitigated pain and suffering for so many people and their families. You have subjected these individuals to emotional, financial and social devastation.

From the very beginning of our medical education we learned the principle of "Primum non nocere". First of all, do no harm. No matter what we learned thereafter, that remained the basic foundation governing our practice. You clearly ignored this fundamental principle.

Your transgressions were egregious in nature, repulsive in result, and caused irreparable harm to many innocent victims.

The medical profession strives to act morally, ethically, and with the best interests of our patients in the forefront of our actions. As physicians we are sometimes called upon to serve the administration of justice in our courts. By your actions you abysmally failed to do so in these areas and have subsequently disgraced our profession. We publicly deplore and denounce your behaviour. Nothing we can do or say will repair the damage you have caused to the lives of the persons you have injured. What we can do is express, through this reprimand, the abhorrence of the profession and the public for your misconduct.