Court File No: 39340

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR SASKATCHEWAN)

B E T W E E N:

LAW SOCIETY OF SASKATCHEWAN

Appellant
(Respondent)

- and -

PETER V. ABRAMETZ

Respondent
(Appellant)

- and -

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Interveners

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PART I – OVERVIEW

1. In the case at bar, the Court of Appeal for Saskatchewan departed from the law established by this Court in *Blencoe*[1] and stayed the Law Society of Saskatchewan's professional misconduct proceedings after the Hearing Committee found the member, Mr. Abrametz, guilty of significant misconduct warranting the most serious of sanctions: disbarment.[2] In so doing, the Court of Appeal effectively imposed a limitation period on investigations conducted by regulators, a protection far exceeding even that afforded to an accused in a criminal proceeding, and one that is particularly alarming in the context of sexual abuse investigations.

2. The College of Physicians and Surgeons of Ontario (the "CPSO"), the College of Nurses of Ontario, the Ontario College of Pharmacists and the Royal College of Dental Surgeons of Ontario (the "Ontario Health Colleges" or the "Colleges") investigate and prosecute serious allegations of sexual abuse, among other things, by healthcare professionals against patients. They do so under the provisions of a legislated zero-tolerance regime whose stated aims include encouraging the reporting of sexual abuse and ultimately eradicating it from the professions.[3] These two critically important societal goals will be jeopardized if this Court adopts the rigid approach taken by the Saskatchewan Court of Appeal.

3. Inflexibility in the doctrine of delay is intrinsically detrimental to sexual abuse investigations and prosecutions. Sexual abuse remains a pervasive, complex social and legal challenge.[4] In recognition of this, the law has evolved to eschew myths and stereotypes about sexual abuse survivors and afford them greater protections in the hearing process. The law must continue along this path. Sexual abuse cases are complex and require delicate management. The

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[1] *Blencoe v. British Columbia (Human Rights Commission),* 2000 SCC 44 ["*Blencoe"*]
[2] *Law Society of Saskatchewan* v. *Abrametz*, 2018 SKLSS 8 at paras. 399 and 409, reversed *Abrametz v. Law Society of Saskatchewan*, 2020 SKCA 81 ["*Abrametz*"]
[3] *Regulated Health Professions Act*, *1991*, S.O. 1991, c.18 [the "RHPA"]; Health Professions Procedural Code, Schedule II to the *Regulated Health Professions Act*, *1991*, S.O. 1991, c.18 [the "Code"], s. 1.1 and s.3(2)
[4] Angela Campbell, "A Specialized Sexual Offences Court for Quebec" (2020) 2: Canadian Journal of Law and Justice 179, p. 220

law must be sufficiently flexible to permit Colleges to engage in trauma-informed processes[5] and accommodate the myriad factors that contribute to investigative and hearing delay in the context of sexual abuse.

PART II – INTERVENERS' POSITION ON THE QUESTIONS IN ISSUE

4. Ontario Health Colleges submit that although delay in administrative proceedings is undesirable, it must continue to be evaluated contextually. Specifically:

a) This Court should affirm its judicial approach to delay that allows for contextualized review and that appropriately accounts for the experiences of sexual abuse survivors;

b) This Court should reject a judicially imposed limitation period on investigative timelines (particularly one that starts the moment a concern becomes known), which would have untenable consequences for sexual abuse cases and would undermine the courts' and legislatures' heightened concerns regarding sexual violence; and,

c) This Court should draw the threshold for a stay of proceedings in a manner that recognises the important role professional regulatory bodies play in protecting patients and the public articulated by this Court in *Finney*[6] and *Binet*.[7]

PART III – STATEMENT OF ARGUMENT

A. Background: The Ontario Health Colleges and the Zero Tolerance Regime

5. The Ontario Heath Colleges are governed under the *Regulated Health Professions Act* ("the RHPA") and are among the largest self-regulating bodies for health professions in Ontario, all of which are required to serve and protect the public interest.[8]

6. The RHPA, enacted in 1994, instituted significant reforms in the handling of sexual abuse cases. The legislation was informed in large part by an independent task force (the "First Task

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[5] Melanie Randall and Lori Haskell, "Trauma-Informed Approaches to Law: Why Restorative Justice Must Understand Trauma and Psychological Coping" (2013) 36:2 Dal LJ 501 pp.517-519 & 522-524]; Angela Campbell, "A Specialized Sexual Offences Court for Quebec" (2020) 2: Canadian Journal of Law and Justice 179, p.197; Karen Bellehumeur, A Former Crown's Vision for Empowering Survivors of Sexual Violence, 2020 37 Windsor Yearbook on Access to Justice, at p.5-6

[6] *Finney v. Barreau du Québec*, 2004 SCC 36 ["*Finney*"]

[7] *Pharmascience Inc. v. Binet*, 2006 SCC 48 ["*Binet*"], at para. 36

[8] Code, s.3(2)

Force"), established by the CPSO in 1991. The First Task Force was commissioned with the express recognition that the sexual abuse of patents by their health care providers was a serious social problem, one that had not been adequately managed and which required meaningful change.[9] As a result, the RHPA implemented a zero-tolerance regime with the stated purpose of encouraging the reporting of sexual abuse, and, ultimately, of eradicating the sexual abuse of patients by members.[10]

B. Investigative Delay in Sexual Abuse Cases

7. Case law reveals important principles that are critical to any analysis of how sexual abuse proceedings can and should proceed. The law has long recognised that sexual abuse of patients by their health care providers is a gross breach of trust that has devasting and far-reaching consequences, including serious, long-term physical and emotional injury to the patient.[11] The inherent power imbalance that exists between the health care provider and the patient survives the termination of the practitioner-patient relationship,[12] impacting a patient's willingness to report their health care provider and further to proceed against their health care provider once a report has been made.

8. Complexity is endemic in sexual abuse investigations, which do not follow predictable or consistent timelines. There is no "inviolable rule" governing sexual abuse survivors' behaviour,

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[9] The Final Report of the Task Force on Sexual Abuse of Patients: An Independent Task Force Commissioned by the College of Physicians and Surgeons of Ontario ("First Task Force Report"), p.10-16 [Book of Authorities of the Ontario Health Colleges ("Ontario Health Colleges' BOA"), Tab 1]; *Mussani v. College of Physicians and Surgeons of Ontario,* 2004 CanLII 48653 (ONCA) [*Mussani OCA"*], at paras. 19-21 and 73; *Mussani v. College of Physicians and Surgeons of Ontario*, 2003 CanLII 45308 (ON SCDC) ["*Mussani Div. Ct."*], at paras. 24-32

[10] Code, s. 1.1

[11] *Norberg v. Wynrib*, 1992 CanLII 65 (SCC) ["*Norberg*"] at p. 258-260]; *Mussani OCA* at paras. 20-21 and 73; First Task Force Report, p.10-16 [Ontario Health Colleges' BOA, Tab 1]; To Zero: Independent Report to the Minister's Task Force on the Prevention of Sexual Abuse of Patients and the Regulated Health Professions Act, 1991" (the "2015 Task Force Report"), p. 91-96 [Ontario Health Colleges' BOA, Tab 2];

[12] *Ontario (College of Physicians and Surgeons of Ontario)* v. *Ghabbour*, 2017 ONCPSD 3; *Ontario (College of Physicians and Surgeons of Ontario) v. Brown*, 2015 ONCPSD 20; Code s.1(6); 2015 Task Force Report, p. 91-96 [Ontario Health Colleges' BOA, Tab 2]

which is not to be judged based on myths or stereotypes.[13] It is now widely recognized that reporting of sexual abuse may be delayed or may be incremental in nature.[14] As one court noted:

> Some victims of sexual assault will report immediately, some later; some incrementally, and some not at all. Some will tell the truth, initially, and some later. Their reasons for not reporting, delayed reporting or not being truthful when initially reporting are as many and varied as the victims, but include fear, guilt, embarrassment, or lack of understanding and knowledge…[15]

9. Reluctance to report is a long-recognised feature of sexual abuse cases and is a known and expected consequence of sexual trauma. Reluctance may also arise where the patient requires the ongoing services of heath care providers, such as in this CPSO case:

> I wanted nothing to do with this. I've been in this I guess medical cycle most of my life and I'm not interested in ticking off a community that's described as a brotherhood, and I have a very distinguishable last name. Whether I like it or not, I need the services of doctors and I didn't want to be dismissed by doctors because I participated in [these proceedings].[16]

10. It follows that patients' behaviour after the initial disclosure of abuse may not follow a predictable timeline. Patients' reluctance cannot be expected to end with the act of disclosure. Indeed, barriers impacting a survivor's willingness to continue in a legal process once a report has been made have been well-documented, including the fact that the legal proceeding itself may be retraumatizing.[17] Thus, patients may need time, following an initial report, to engage with the Colleges' formal processes, which often require patients to share highly personal, sensitive and sometimes traumatic details of incidents, and equally personal and sensitive evidence, such as photographs, telephones or diaries. Rather than a straight-line trajectory, victims' co-operation in the proceeding may vacillate.[18]

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[13] *R. v D.D.*, 2000 SCC 43, at para. 65

[14] *R v Ramos*, 2020 MBCA 111 at para 65-74, aff'd 2021 SCC 15 [*"Ramos"*]; *R* v *D.P.*, 2017 ONCA 263 at para 31, leave dismissed 2017 CanLII 78704

[15] *Ramos*, at para 65-74, citing *R v M.H.*, 2018 ONSC 7366, at para. 74

[16] *Ontario (College of Physicians and Surgeons of Ontario) v. Lee*, 2017 ONCPSD 2 (CanLII) See also *College of Physicians and Surgeons of Ontario v Johnson*, 1993 ONCPSD 35

[17] Angela Campbell, "A Specialized Sexual Offences Court for Quebec" (2020) 2: Canadian Journal of Law and Justice 179, p. 192-196

[18] *R. v. D. (E.)(C.A.),* 1990 CanLII 6911 (ON CA); *Holder v. Manitoba (College of Physicians and Surgeons)* 2002 MBCA 135 *["Holder"],* at paras 4-13 and 20-25

11. Moreover, the manner in which the Colleges are made aware of allegations of sexual abuse may engender complex and protracted investigations. For example, information regarding sexual abuse may come from the police, and in cases of concurrent criminal proceedings, it may be desirable or necessary to await the outcome of the criminal matter before proceeding with a College investigation.[19] In some cases, a patient has made an initial inquiry or complaint, but does not wish to proceed. The College may choose to commence an investigation on its own initiative, sometimes immediately, sometimes years later, where there is a public interest in doing so.[20] In other instances, the College has received complaints that are subsequently recanted; on further investigation it is revealed that the recantation had been at the behest of the member, who continued to assert power and control over the patient.[21] These investigations do not follow a predictable or established timeline.

12. Notably, the zero-tolerance regime for all regulated health professionals includes a legislated requirement for mandatory reporting which directly impacts the timing of investigations. All regulated health professionals are required to report to the appropriate College if they have reasonable grounds to believe a member of regulated health profession sexually abused a patient. However, unless the patient consents, the report cannot include the patient's name.[22] The system is designed to ensure that knowledge of sexual abuse reaches Colleges even if the patient is not yet ready to participate in the process.[23] It is premised on the delicate balance between the patient's autonomy to participate and the Colleges' overarching mandate to protect the public by investigating the concern.[24] While Colleges retain the power to compel the identity of the patient,

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[19] *Morzaria v. College of Physicians and Surgeons of Ontario,* 2017 ONSC 1940 (Div.Ct.) at para. 8; *Sazant v. College of Physicians and Surgeons of Ontario*, 2011 ONSC 323 (Div.Ct.)["*Sazant Div. Ct.],* aff'd 2012 ONCA 727 ["*Sazant OCA"],* at paras 33-36

[20] *Volochay v. College of Massage Therapists*, 2019 ONSC 5718 (Div. Ct.) at paras.11-13; *College of Physicians and Surgeons of Ontario v. Okafor*, 2021 ONCPSD 9 at paras. 54-55; *Ontario (College of Physicians and Surgeons of Ontario) v. Kunynetz*, 2019 ONSC 4300 (Div. Ct.) at paras. 7-18

[21] *Ontario (College of Physicians and Surgeons of Ontario) v. Williams*, 2012 ONCPSD 20; *Ontario (College of Physicians and Surgeons of Ontario) v. Sekhon*, 2016 ONCPSD 42; *Ontario (College of Physicians and Surgeons of Ontario) v. Tadros*, 2015 ONCPSD 27

[22] Code, s. 85.1, s. 85.3(4)

[23] First Task Force Report, p.22-23 and 42-43 [Ontario Health Colleges' BOA, Tab 1]

[24] *College of Physicians and Surgeons of Ontario* v. *Dr. Kayilasanathan* 2019 ONSC 4350 ["*Kayilasanathan*"], at para 72-74; Code, s.75(1)(a) and 76

even where the patient choses to be anonymous, Colleges must be mindful of the particular circumstances of the case, and the risk of re-traumatization.[25] Managing these competing interests affects the timelines of investigations.[26] Accordingly, it is imperative that the Colleges retain flexibility in determining when and how to commence an investigation once they become aware of concerns.

C. The doctrine of delay in administrative proceedings must account for complexity of sexual abuse investigations

13. The doctrine of inordinate delay must account for the variable contexts in which sexual abuse investigations unfold: an anonymous patient whose identity may become known to the College over time; a patient who makes inquiries but who is not ready to proceed; a patient who makes incremental disclosure, or recants in fear or under threat; or a changing landscape in which new information about a practitioner triggers the College to use its powers to compel patient co-operation. Timely investigations are in the interests of justice, for members, patients, and the public. However, "sounding the alarm"[27] on delay must account for the complex and sometimes protracted investigations involving sexual misconduct.

14. The *Blencoe* framework compels the court to assess delay in a context-specific manner. In *Blencoe*, this Court recognized that unacceptable delay may amount to an abuse of process in certain circumstances even where fairness of the hearing has not been compromised. This arises where the delay has caused prejudice of such a magnitude that the public's sense of decency and fairness is affected. The Court acknowledged, however, that few lengthy delays will meet this threshold and that whether delay is inordinate depends on the context.[28]

15. Courts have successfully used the *Blencoe* framework to assess delay in the context of sexual abuse cases. For example, in the case of *Sazant*, a physician was found to have engaged in sexual misconduct with four vulnerable boys.[29] There were multiple complainants with similar allegations, some of which were the subject of ongoing criminal proceedings. While the College was aware of the complaints, it monitored the associated criminal charges and awaited the outcome

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[25] *Kayilasanathan*, at para 72-74; Code, s.75(1)(a) and 76
[26] First Task Force Report, p.22-23 and 42-43 [Ontario Health Colleges' BOA, Tab 1]
[27] *Abrametz*, at para. 8
[28] *Blencoe*, at para. 115 and 122
[29] *Sazant OCA*, at para. 4

of the criminal proceedings before proceeding. Although the delay in *Sazant* was admittedly lengthy, the application of *Blencoe* permitted the Court of Appeal for Ontario to account for the particular complexities arising from the historic sexual misconduct allegations in that case. The Court confirmed that the delay in those circumstances was not inordinate and did not give rise to an abuse of process.[30]

D. A Limitation Period on Investigations is Untenable in Sexual Abuse Cases

16. Any doctrine of inordinate delay established by this Court must reject the path taken by the Saskatchewan Court of Appeal. Staying proceedings for the mere passage of time would be "tantamount to imposing a judicially created limitation period", something this Court has long eschewed, particularly in the context of sexual abuse. As explained by this Court in *R v. L(W.K.)*:[31]

> For victims of sexual abuse to complain would take courage and emotional strength in revealing those personal secrets, in opening old wounds. If proceedings were to be stayed based solely on the passage of time between the abuse and the charge, victims would be required to report incidents before they were psychologically prepared for the consequences of that reporting.
>
> That delay in reporting sexual abuse is a common and expected consequence of that abuse has been recognized in other contexts…. Establishing a judicial statute of limitations would mean that sexual abusers would be able to take advantage of the failure to report which they themselves, in many cases, caused. This is not a result which we should encourage. There is no place for an arbitrary rule.[32]

17. In the criminal context, rejecting a judicially imposed limitation period has allowed police flexibility and discretion in the timing of an investigation of sexual assault.[33] This Court has recognized that "the time lapse between the commission of an offence and the laying of a charge cannot be monitored by Courts by fitting investigations into a standard mould..."[34] Absent hearing unfairness, a stay will not result when criminal investigations of sexual abuse are closed by police, and re-opened years later, for example, when a complainant determines they wish to proceed[35], or

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[30] *Sazant OCA*, at paras. 244-246
[31] *R. v. L. (W.K.),* [1991] 1 S.C.R. 1091 ["*R v. L.(W.K.)*"]
[32] *Ibid.*, at p. 1101
[33] *R. v. D. (E.)(C.A.),* 1990 CanLII 6911 (ON CA)*;* See also *R. v H.A.,* 1998 CanLII 7191 (ON CA) at paras 5 and 9; *R. v Wubbolt*, 2004 CanLII 22810 (ON CA) ["*Wubbolt"*], at paras. 8-9 and 12-13
[34] *R. v. L.(W.K.),* at p.1099, citing *Rourke v. The Queen,* [1978]1 S.C.R. 021 at 1040-1
[35] *R. v. D. (E.)(C.A.),* 1990 CanLII 6911 (ON CA); *R. v H.A.,* 1998 CanLII 7191 (ON CA), at paras. 5 and 9

where police otherwise change their minds.[36]

18. Similarly, no limitation period exists at common law for civil tort claims of sexual assault. As a matter of policy, all provincial jurisdictions other than Prince Edward Island have eliminated statutory limitation periods for claims of this nature.[37]

19. Adopting a *Jordan* framework in its effort to "invigorate" *Blencoe* principles,[38] the Court of Appeal determined the clock starts not from the date of the formal allegations (like *Jordan*), but rather from when the regulator knew "enough" about the issue "that might engage its investigatory… process…"[39] This formulation fails to account for patient experience and trauma, the myriad ways in which victims of sexual abuse may become known to regulatory bodies and the unpredictable manner in which investigations may unfold.

20. Imposing a judicially created limitation period on administrative investigations for sexual abuse has untenable consequences. First, it has the effect of insulating members from action by their regulators: paradoxically, it affords health professionals greater protection from delay than they would receive in a criminal prosecution and a civil suit arising from the same misconduct.

21. Second, notwithstanding a mandate to eradicate sexual abuse, a problem that has plagued the health professions and society at large for decades, Colleges will be rushed to pressure uncertain and reluctant sexual abuse survivors to proceed, to use powers of compulsion to identify patients who chose to remain anonymous, to forge ahead despite concurrent criminal proceedings, and to prosecute similar allegations of sexual abuse against a member in isolation, forgoing the probative value of similar fact evidence. This is contrary to: a) the zero-tolerance regime that

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[36] *Wubbolt*, at paras. 8-9 and 12-13

[37] *F.H. v. McDougall*, 2008 SCC 53 at para. 76; *Limitations Act, 2002*, SO 2002 c 24 Sch B, s. 16 (1)(h); *Limitations Act*, RSA 2000 c L-12, s.3.1(1)(a); *Limitation Act*, SBC 2012 c 13, s. 3(1)(j); *The Limitations Act*, SS 2004 c L-16.1, s. 16(1); *The Limitation of Actions Act*, CCSM c L150, s. 2.1(2); *Limitation of Actions Act*, SNB 2009, c L-8.5, s. 14.1; *Limitation of Actions Act*, SNS 2014, c 35, s. 11(a); *Civil Code of Quebec*, CQLR c CCQ-1991, s. 2926.1; *Limitation of Actions Act*, RSY 2002, c 139, s. 3(b); *Limitations Act*, SNL 1995 c L-16.1, s. 8(2): the limitation does not apply where the victim was under the care or authority of, or a beneficiary of a fiduciary relationship with another person; *Limitation of Actions Act*, RSWNT 1998 c. 8 (Supp), s 2.1(2-4): the limitation is eliminated in the contest of a relationship of trust.

[38] *Abrametz*, at para. 212

[39] *Ibid*, at para. 148

governs sexual abuse by health care practitioners and its goal of eradicating sexual abuse of patients by members;[40] b) the continued reform in the criminal justice system intended to eliminate the scourge of sexual abuse; and, c) the recent recognition of this Court that as a society "we can and must do better" to eliminate sexual violence.[41]

E. The Court must Affirm the High Threshold required to Stay Proceedings where Investigations are Undertaken to Protect the Public Interest

22. A stay of proceedings is described by this Court as "draconian",[42] "exceptional and very rare",[43] "drastic", and a remedy of last resort[44] to be exercised only in the "clearest of cases"[45] where the conduct is so offensive to the notions of fair play and decency that it will be harmful to the integrity of the justice system if the case proceeds.[46] Even where this is so, and where no alternate remedy can redress the prejudice, a stay is only available after careful balancing: the damage to the public interest in proceeding must outweigh the harm to the public interest in halting the process.[47] As *Blencoe* established, the threshold for granting a stay based on delay in an administrative context must be equally high. This Court has recognized the crucial role that professional regulatory bodies play in protecting the public interest.[48] Thus, the harm to the public interest in halting a disciplinary hearing, particularly one involving allegations of sexual abuse, is immense.[49]

23. As the courts have noted, granting a stay produces a windfall: a person's alleged misconduct is forever shielded from review. Accordingly, "the price for staying proceedings must be "worth the gain".[50] In the context of sexual abuse allegations, this assessment involves a broad

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[40] Code, s. 1.1
[41] *R v. Barton*, 2019 SCC 33, at para. 1
[42] *R. v. Taillefer and Duguay,* 2003 SCC 70, at para. 117
[43] *R v. Babos,* 2014 SCC 16 ["*Babos*"], at para.44
[44] *R. v. O'Connor*, 1995 CanLII 51 (SCC) at para. 77; *R. v. Regan,* 2002 SCC 12 ["*Regan*"] at para. 53
[45] *Blencoe*, at para. 120
[46] *Babos,* at para.44
[47] *Babos,* at paras. 30-32 and 41; *Regan* at paras. 18 and 55-57
[48] *Binet*, at para. 36
[49] *Sliwin* v. *College of Physicians and Surgeons*, 2017 ONSC 1947 at para 92; *Sazant OCA*, at paras. 235 and 248; *Holder*, at para. 35
[50] *Babos,* at paras. 41 and 43 citing *R. v. Zarinchang*, 2010 ONCA 286 at para. 60; *Regan*, at para. 57

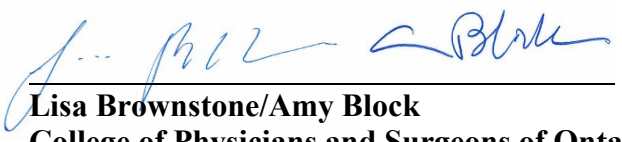
policy-based view of the regulator's mandate: to protect the public; to recognize the devastating impact on patients when their trust in health care professionals has been violated, and to maintain public confidence in the ability of the health profession to regulate itself.[51]

24. Setting the threshold for a stay of proceedings must also be considered in light of this Court's decision in *Finney* which established the potential for civil liability for regulators that fail to consider all available information in a timely way. *Finney* confirms the importance of properly discharging this obligation.[52] But *Finney* is incompatible with the low bar for a stay of proceedings employed by the Court of Appeal in *Abrametz.* Together, these authorities entrammel the public interest: a regulator may be found liable for harm caused by failing to act, but may then be precluded from acting against the member to prevent future harm. The regulator would be exposed to liability indefinitely; the public would be exposed to intolerable and ongoing risk of harm.

PART IV & V– SUBMISSIONS REGARDING COSTS AND ORDER SOUGHT

25. The Ontario Health Colleges seek no costs and request that no costs order be made against them. By order dated July 27, 2021, the Court granted the Colleges permission to present oral argument not exceeding five (5) minutes at the hearing of the appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 27th day of August, 2021



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[51] *College of Physicians and Surgeons of Ontario v. McIntyre*, 2017 ONSC 116 (Ont. Div Ct.) at para. 62

[52] *Finney,* at para 42; *Binet* at para. 36

PART VI - TABLE OF AUTHORITIES

	Cases	**Cited at Paragraph(s)**
1	*Abrametz v. Law Society of Saskatchewan*, 2020 SKCA 81	1, 13, 19, 24
2	*Blencoe v. British Columbia (Human Rights Commission),* 2000 SCC 44	1, 14, 15, 19, 22
3	*College of Physicians and Surgeons of Ontario v Johnson*, 1993 ONCPSD 35	9
4	*College of Physicians and Surgeons of Ontario v. Okafor*, 2021 ONCPSD 9	11
5	*Finney v. Barreau du Québec*, 2004 SCC 36	4(c), 24
6	*Holder v. Manitoba (College of Physicians and Surgeons),* 2002 MBCA 135	10, 22
7	*Law Society of Saskatchewan* v. *Abrametz*, 2018 SKLSS 8	1
8	*Morzaria v. College of Physicians and Surgeons of Ontario,* 2017 ONSC 1940	11
9	*Mussani v. College of Physicians and Surgeons of Ontario,* 2004 CanLII 48653 (ONCA)	6, 7
10	*Mussani v. College of Physicians and Surgeons of Ontario*, 2003 CanLII 45308 (ON SCDC)	6
11	*Norberg v. Wynrib*, 1992 CanLII 65 (SCC)	7
12	*Ontario (College of Physicians and Surgeons of Ontario) v. Brown*, 2015 ONCPSD 20	7
13	*Ontario (College of Physicians and Surgeons of Ontario)* v. *Ghabbour*, 2017 ONCPSD 3	7
14	*College of Physicians and Surgeons of Ontario* v. *Dr. Kayilasanathan* 2019 ONSC 4350	12
15	*Ontario (College of Physicians and Surgeons of Ontario) v. Kunynetz*, 2019 ONSC 4300 (Div. Ct.)	11
16	*Ontario (College of Physicians and Surgeons of Ontario) v. Lee*, 2017 ONCPSD 2	9
17	*College of Physicians and Surgeons of Ontario v. McIntyre*, 2017 ONSC 116	23
18	*Ontario (College of Physicians and Surgeons of Ontario) v. Sekhon*, 2016 ONCPSD 42	11

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19	*Ontario (College of Physicians and Surgeons of Ontario) v. Tadros*, 2015 ONCPSD 27	11
20	*Ontario (College of Physicians and Surgeons of Ontario) v. Williams*, 2012 ONCPSD 20	11
21	*R v. Babos,* 2014 SCC 16	22, 23
22	*R v. Barton*, 2019 SCC 33	21
23	*R. v D.D.*, 2000 SCC 43	8
24	*R. v. D. (E.)(C.A.),* 1990 CanLII 6911 (ON CA)	10, 17
25	*R v D.P.*, 2017 ONCA 263 leave dismissed 2017 CanLII 78704	8
26	*R. v H.A.,* 1998 CanLII 7191 (ON CA)	17
27	*R. v. L. (W.K.),* [1991] 1 S.C.R. 1091	16, 17
28	*R v M.H.*, 2018 ONSC 7366	8
29	*R. v. O'Connor*, 1995 CanLII 51 (SCC)	22
30	*R. v. Regan,* 2002 SCC 12	22, 23
31	*R. v. Taillefer and Duguay,* 2003 SCC 70	22
32	*R. v. Zarinchang*, 2010 ONCA 286	23
33	*Sazant v. College of Physicians and Surgeons of Ontario*, 2011 ONSC 323 (Div.Ct.)	11
34	*Sazant v. College of Physicians and Surgeons of Ontario*, 2012 ONCA 727	11, 15, 22
35	*Sliwin* v. *College of Physicians and Surgeons*, 2017 ONSC 1947	22
36	*Volochay v. College of Massage Therapists*, 2019 ONSC 5718	11
	Secondary Sources	
37	Angela Campbell, "A Specialized Sexual Offences Court for Quebec" (2020) 2: Canadian Journal of Law and Justice 179, p. 192-197 & 220	3, 10
38	Karen Bellehumeur, A Former Crown's Vision for Empowering Survivors of Sexual Violence, 2020 37 Windsor Yearbook on Access to Justice], pp. 5-6	3

	Secondary Sources	**Cited at Paragraph(s)**
39	Melanie Randall and Lori Haskell, "Trauma-Informed Approaches to Law: Why Restorative Justice Must Understand Trauma and Psychological Coping" (2013) 36:2 Dal LJ 501 pp.517-519 & 522-524	3
40	The Final Report of the Task Force on Sexual Abuse of Patients: An Independent Task Force Commissioned by the College of Physicians and Surgeons of Ontario, p.10-16, 22-23 and 42-43 ("the First Task Force") [Ontario Health Colleges' BOA, Tab1]	6, 7, 12
41	To Zero: Independent Report to the Minister's Task Force on the Prevention of Sexual Abuse of Patients and the Regulated Health Professions Act, 1991" (the "2015 Task Force Report"), p. 91-96 [Ontario Health Colleges' BOA, Tab 2]	7

PART VII – LEGLISATION RELIED UPON

Legislation	Paragraph(s) Referenced in Factum
Regulated Health Professions Act, 1991, S.O. 1991, c.18	2, 5, 6
Health Professions Procedural Code, Schedule II to the *Regulated Health Professions Act*, *1991*, S.O. 1991, c.18, ss.1.1, 1(6), 3(2), 75(1)(a), 76, 85.1, 85.3(4)	2, 5, 6, 7, 12, 21
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The Limitations Act, SS 2004 c L-16.1, s. 16(1)	18
The Limitation of Actions Act, CCSM c L150, s. 2.1(2)	18
Limitation of Actions Act, SNB 2009, c L-8.5, s. 14.1	18
Limitation of Actions Act, SNS 2014, c 35, s. 11(a)	18
Civil Code of Quebec, CQLR c CCQ-1991, s. 2926.1	18
Limitation of Actions Act, RSY 2002, c 139, s. 3(b)	18
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Limitation of Actions Act, RSWNT 1998 c. 8 (Supp), s 2.1(2-4)	18