

DISCIPLINE COMMITTEE OF
THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

BETWEEN:

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

CLAUDIO DE NOVAES SOARES

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE OF THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO has referred to the Discipline Committee of the College the allegation that Dr. Claudio De Novaes Soares ("Dr. Soares"), a member of the College, has committed an act of professional misconduct:

1. under clause 51(1)(b.1) of the Health Professions Procedural Code (the "Code"), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, in that he has engaged in the sexual abuse of a patient; and
2. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, in that he has engaged in conduct or an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Further information about the allegations is contained in Schedule "A" to this Notice of Hearing.

A PANEL OF THE DISCIPLINE COMMITTEE WILL HOLD A HEARING under the authority of sections 38 to 56 of the Code for the purpose of deciding whether Dr. Soares has committed an act or acts of professional misconduct. The hearing will be held at the College of

Physicians and Surgeons of Ontario, 80 College Street, Toronto, Ontario or such other venue as the College may advise, on a date to be determined after consultation between counsel for the College and Dr. Soares or his counsel, and fixed by the Hearings Office.

IF DR. SOARES DOES NOT ATTEND AT THE HEARING, the discipline panel may proceed in his absence and he will not be entitled to any further notice of the proceedings.

IF THE PANEL FINDS that Dr. Soares has committed an act or acts of professional misconduct the panel may make one or more orders authorized under subsections 51(2) and 51(5) of the Code as follows:

Orders

51(2) *If a panel finds a member has committed an act of professional misconduct, it may make an order doing any one or more of the following:*

1. *Directing the Registrar to revoke the member's certificate of registration.*
2. *Directing the Registrar to suspend the member's certificate of registration for a specified period of time.*
3. *Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time.*
4. *Requiring the member to appear before the panel to be reprimanded.*
5. *Requiring the member to pay a fine of not more than \$35,000 to the Minister of Finance.*
- 5.1 *If the act of professional misconduct was the sexual abuse of a patient, requiring the member to reimburse the College for funding provided for that patient under the program required under section 85.7.*
- 5.2 *If the panel makes an order under paragraph 5.1, requiring the member to post security acceptable to the College to guarantee the payment of any amounts the member may be required to reimburse under the order under paragraph 5.1. 1991, c. 18, Sched. 2, s. 51 (2); 1993, c. 37, s. 14 (2).*

51(5) *If a panel finds a member has committed an act of professional misconduct by sexually abusing a patient, the panel shall do the following in addition to anything else the panel may do under subsection (2):*

1. *Reprimand the member.*
2. *Revoke the member's certificate of registration if the sexual abuse consisted of, or included, any of the following,*
 - i. *sexual intercourse,*

- ii. *genital to genital, genital to anal, oral to genital, or oral to anal contact,*
- iii. *masturbation of the member by, or in the presence of, the patient,*
- iv. *masturbation of the patient by the member,*
- v. *encouragement of the patient by the member to masturbate in the presence of the member.*

THE DISCIPLINE PANEL MAY, under subsection 53.1 of the Code, make an order requiring Dr. Soares to pay all or part of the College's costs and expenses.

THE COLLEGE INTENDS TO INTRODUCE as business records, under section 35 of the *Evidence Act*, any writings or records that were made in the usual and ordinary course of business. Without limiting the generality of the foregoing, the College intends to introduce as business records the medical and hospital charts related to the patient care that is the subject of the allegations.

Dr. Soares is entitled to disclosure of the evidence against him and of other information in the College's knowledge or possession. To obtain disclosure, Dr. Soares or his counsel or agent should contact the Legal Office of the College of Physicians and Surgeons, 80 College Street, Toronto, Ontario, M5G 2E2, telephone (416) 967-2600 or 1-800-268-7096.

Dated: July 11, 2012

Chair
Inquiries, Complaints and Reports Committee

TO: Dr. Claudio De Novaes Soares
c/o Women's Health Concerns Clinic
St. Joseph's Healthcare Hamilton
Dept Psych & Behavioural Neurosci
301 James Street South, FB638
L8P 3B6

SCHEDULE "A"

1. Dr. Soares holds an Academic Practice Certificate issued September 30, 2008. He practices psychiatry in a clinic in Hamilton affiliated with the university where he holds an appointment.
2. Patient A, whose identity has been disclosed to Dr. Soares under separate cover, was a patient of Dr. Soares from approximately November 2007 until on or about May 8, 2009.
3. Dr. Soares engaged in: touching of a sexual nature of Patient A, behaviour and/or remarks of a sexual nature towards Patient A, kissing with Patient A, fellatio of Dr. Soares by Patient A, sexual intercourse with Patient A, and/or other forms of physical sexual relations between Patient A and Dr. Soares. This behaviour constituted sexual abuse of Patient A by Dr. Soares and/or disgraceful, dishonourable or unprofessional conduct by Dr. Soares.
5. Dr. Soares failed to cooperate fully with an investigator appointed under section 75(1)(c) of the Health Professions Procedural Code, including by failing to provide requested information and/or documentation.

ADDITIONAL INFORMATION ABOUT THE ALLEGATIONS AGAINST DR. SOARES WILL BE PROVIDED IN ADVANCE OF THE HEARING.