

SUPERIOR COURT OF JUSTICE

B E T W E E N:

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

Applicant

v.

MARK BENTUM

Respondent

R E A S O N S F O R S E N T E N C E

BEFORE THE HONOURABLE JUSTICE R.L. AKAZAKI
on August 8, 2025, at TORONTO, Ontario

APPEARANCES:

E. Graham

Counsel for the Applicant

Mark Bentum

In Person

(i)
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E X H I B I T S

EXHIBIT NUMBER

ENTERED ON PAGE

Reasons for Sentence

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1.
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FRIDAY, AUGUST 8, 2025

R E A S O N S F O R S E N T E N C E

5 AKAZAKI, J. (Orally):

Given the fact that the respondent appears to understand the proposed order and has agreed in substance to it, I'm going to dictate my reasons. Mr. Bentum, if you could please stand. The following, first of all, are the terms, and I will read them out to make sure that you understand. You will be provided with a copy of the judgement when it is issued, but I'm going to read them to you.

15 1. The first part of the sentence is that you are found to be in contempt of the order of the Honourable Justice John Callaghan of November 27, 2023, in failing to comply with the order and to comply with s. 33 of the *Regulated Health Professions Act*; also, with respect to s. 9 of the *Medicine Act*. In particular, you failed to:

- 25 • refrain from using the title "Doctor" and any variation or abbreviation thereof in the course of providing or offering to provide in Ontario health care to individuals;
- using titles "physician," "surgeon," or "plastic surgeon," "medical resident," or any variation or abbreviation of those terms;
- 30 • holding yourself out as a person qualified to

practice in Ontario as a physician, surgeon,
or plastic surgeon;

- immediately remove and permanently refrain from displaying or permitting to be displayed on any website, social media account, or other document connected to or associated with this provision any health care service in Ontario;
- all references to the title doctor, physician, surgeon, plastic surgeon, and medical resident to be applied to Mr. Bentum;
- all references to Mr. Bentum indicating that he is a physician, doctor, surgeon, plastic surgeon, or medical resident; and
- all references or claims that Mr. Bentum performs or is permitted to perform controlled acts as defined under Ontario statute.

2. The second part of the order is that you comply with the order that I just described.

3. The third part of the order is that you comply with s. 33 of the *Regulated Health Professions Act* and s. 9 of the *Medicine Act*. And I won't go through it again, but they're all various uses of the words physician, doctor, and similar ways of describing yourself as a doctor or impersonating a doctor. Also, against performing or purporting to perform various controlled acts, including but not limited to:

- Communicating with individuals, an individual

or his or her personal representative diagnosis identifying a disease or disorder as a cause of symptoms of the individual in circumstances in which the reasonably foreseeable that the individual or his or her personal representative will rely on the diagnosis.

- Administering a substance by injection, including but not limited to Botox, dermal fillers, and injectable anaesthetics.
- Performing a procedure below the dermis, that is the skin, including but not limited to thread lifting procedures, eyelid surgery, mole excision, and liposuction, and prescribing, dispensing, or selling a drug, including but not limited to Botox, dermal fillers, injectable anaesthetics, and antibiotics.
- Treating or advising a person with respect to his or her health in circumstances in which it is reasonably foreseeable that serious bodily harm may result from the treatment or advice from an omission from the treatment or service.
- Immediately remove and permanently refrain from displaying or permitting to be displayed on any website, social media account, diploma, certificate, email address, advertisement, brochure, business card, receipt letterhead, piece of clothing, lanyard, or any other document or thing connected to or associated

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with his provision of any health care service
in Ontario.

And then there's a list of the references to your
use of the word "doctor," Dr. Mark, and so forth.
I don't need to get into that again.

4. The fourth provision in the order will be that
you be confined to your home address, namely 236
Albion Road in Etobicoke, M9W 6A6, for a period of
30 days, and that you be permitted to leave your
home during this period for the following reasons
only: to work at an occupation or employment that
does not violate any court orders, the *Regulated
Health Profession Act*, the *Medicine Act*, and as
approved by the court and the college; for
necessary medical and/or dental treatment for
yourself or for your immediate family; for
household shopping for no more than four hours per
week; and for the purpose of fulfilling any other
conditions of this sentence.

5. The fifth provision is as follows, that while
you are under house arrest, you remain within
Ontario unless you obtain written permission from
the court to leave Ontario, on notice to the
College, appear before the court when required to
do so, and to notify the court and the College in
advance of any proposed change to your home address
or employment.

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The last provision was actually the fifth. For the record, there are only 13 provisions.

6. The sixth provision is that within six months after the end of the period of this house arrest, Mr. Bentum complete 100 hours of community service at a place and in a capacity approved by the College.

7. This court orders that if Mr. Bentum fails to comply with any of the terms of paragraphs five, six, and seven above, a warrant may be issued for your arrest upon which you shall be imprisoned, and you will serve the balance of this term in prison, including any period of time for failure to comply hours of community service.

8. That you provide a copy of the order of Justice Callaghan and a copy of this order once it is completed and issued, and any reasons for decision, to the municipal police facility closest to your home within five calendar days of the court's order.

Ms. Graham, I'm going to remove the part about the reasons because there would be a delay in getting the reasons from the court reporter. It's important that the order itself will speak for itself.

E. GRAHAM: If I may, Your Honour, perhaps to the extent that that is a concern, perhaps that we could say that the reasons for decision on the

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merits, which are released, that perhaps we could include those...

THE COURT: Okay.

E. GRAHAM: ...and perhaps we could include to the extent that that is a concern that the reasons for decision on sentencing be provided within five calendar days of their release.

THE COURT: Well, given that he's agreed to the order, my concern is only that he understands what the order consists of and the rationale for making the sentence. So, I'm going to suggest that the order of Justice Callaghan, this order, and reasons for the finding of contempt to the municipal police office closest to your home within five calendar days of the court's order.

9. That you provide to the College within five calendar days, all of your home addresses, work addresses, places of employment, personal telephone numbers - landline and mobile, work telephone numbers - landline and mobile, personal email addresses and work email addresses.

10. This court orders that Mr. Benton notify the College of any changes to any of his home addresses, work addresses, places of employment, personal telephone numbers - landline and mobile, work telephone numbers - landline and mobile, personal email addresses and work email addresses within five calendar days of such change.

11. That you cooperate with the College to satisfy

the College that you are complying with and fulfilling the order of Justice Callaghan and this judgement and order, including responding to any enquiries made of him by the College for the purpose within 24 hours of any such enquiry.

12. That the college be granted leave to issue a writ of sequestration directing the sheriff to take possession of and hold Mr. Benton's property located anywhere in Ontario that consists of any of the following - and there's a list of various medical tools that were associated with the unauthorized practice of medicine, and I won't read them all out, including lanyards, clothing inscribed with the word "St. Michael's Hospital" or any certificates or documents bearing the name "Mark Raphael" or "Dr. Mark Raphael."

13. Finally, that you pay the costs of this proceeding together with HST in the amount of \$45,961.45, and the order for costs will be effective 30 days from the date of the order.

In concluding that the sentence as in substance agreed on by the respondent, I nevertheless have the duty to ensure that the sentence itself is fair and made in accordance with established sentencing principles. Those were set out in the case of *Boily v. Carleton Condominium Corporation*, a decision of the Ontario Court of Appeal, 2014 ONCA 574. In paragraph 90 of that decision, the Court of Appeal outlined the six considerations or

factors for determining the appropriate sentence.

- (1) proportionality;
- (2) mitigating factors;
- (3) aggravating factors;
- (4) deterrence and denunciation;
- (5) similar sentences for similar acts of contempt; and
- (6) the reasonableness and appropriateness of a fine or a carceral sentence.

With respect to the first factor, the proportionality of the sentence that the parties have agreed to, I'm satisfied that the sentence is appropriate in the circumstances in which the harm to the public has occurred as a result of an impersonation of a licenced medical doctor. The fact that there appeared to be no significant evidence of the procedures, especially controlled procedures having taken place does not detract from the fact that members of the public must have the confidence to be able to attend the offices of a medical practitioner and have a degree of satisfaction in the licensure of such medical practitioners. Whenever somebody impersonates a medical practitioner, whether it's online or in person, that erodes the confidence of potential patients in the practice of medicine and in the healthcare system generally, values that are important to the health of the people of Ontario and which the College of Physicians has a statutory

mandate to protect.

5 The mitigating factors in this case involve the removal of the social media content, the apparent compliance, albeit late, with respect to the terms and conditions in the order of Justice Callaghan and the agreement to the sentence.

10 With respect to the aggravating factors, the contempt consisted of deliberate acts which by the respondent's admission were connected with a business that the respondent wished to establish for referral of cosmetic medical services. Whether Mr. Benton actually performed the controlled acts or whether he did not, the contempt in breaching
15 the order of Justice Callaghan was intended not as an inadvertent or accidental breach, but rather for the pursuit of a commercial interest, and therefore there are certain aggravating factors connected
20 with this case.

25 The Court of Appeal in the *Boily* decision at paragraph 105 has stated that perhaps the most important consideration in a sentence on a contempt finding is deterrence and denunciation. Deterrence is important because the obedience to a court order and compliance with both the law and to the orders of the court is important because the use of force and compulsion are the only ways in which the court
30 can make sure that its orders are complied with and that the members of the public and institutions of the public can come before the courts and ensure

that their legal rights and responsibilities are observed. It is rules backed by force, and to the extent that the order does provide for minimal restrictions on Mr. Benton's freedom, they are appropriate to deter the conduct of which he is found in breach.

The fifth factor are similar cases. It's important that the sentence that is imposed is similar to other cases, both in terms of fairness to Mr. Bentum and to other individuals who have previously been sentenced, so that the sentence imposed on Mr. Bentum is not more lenient than those imposed on previous contemptors, and that the sentence is not significantly more harsh than those previously imposed. The case that comes closest to the facts of this contempt is the *Royal College of Dental Surgeons of Ontario v. Alsoma*, 2024 ONSC 1924, a decision of Justice Ramsay of this court. In this case, the contempt involved an impersonation of a dental surgeon by a dental assistant, and the actual performance of dental surgery by that individual. The order that has been proposed by the College in Mr. Bentum's case is modelled on the sentence that was imposed in that case with the significant difference that the term of house arrest is shorter and other terms are less onerous. It also referred to the decision in *College of Chiropractors and Dies*, 2014 ONSC 6867.

The sixth factor is the reasonableness of a fine or a carceral sentence. In the sense that house

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arrest involves a restriction on the individual's freedom, it is a form of incarceration, although it is not a prison sentence. The order that is proposed by the College does involve prison if there is further breach of the order. But provided that the order is complied with, both with respect to the house arrest and with respect to the community service and the other compliance provisions, prison hopefully will be avoided.

There is no purpose in fining an individual who cannot pay. There is no deterrence factor involved if one is judgement-proof. Based upon the representations made by Mr. Bentum that he is on government assistance, he is essentially judgement-proof. He has not paid the previous cost awards granted in favour of the College, and there is no prospect that he is going to be able to pay a significant fine to deter future activity. It is therefore appropriate and reasonable to consider incarceration as a form of punishment for the contempt. In the circumstances, the house arrest and community service that have been prescribed are not only reasonable, but fair in the circumstances.

Mr. Bentum had no submissions to make with respect to the appropriateness of the costs. The costs appear to be reasonable in all of the legal services incurred to produce a significant body of legal documents and preparation for oral submissions. I find that the amount of \$45,961.45 is reasonable, and I fix the costs of the

proceedings in that amount.

5 The only remaining concern that I had with respect
to the sentence was the possibility that the social
media accounts, namely the Facebook page depicting
the video of the surgery, may have remained online.
This was driven principally by the fact that
10 Mr. Bentum represented to the court on the previous
occasion for the contempt hearing that he had lost
control of the Instagram and Facebook accounts.
Evidently, he has regained control of them.
Because the offending posts are no longer available
to the public, I need not concern myself with any
further provision with respect to ordering or
15 authorizing the owners of the social media accounts
to take down the material.

20 So that is the sentence. And, Ms. Graham, once
your office can sort out the preamble, I can ask
you to send a copy to the registrar, and the
registrar will forward it to me, and you can get
the registrar's email address when we break, okay?

25 The final point is that Mr. Bentum, you've read the
order, you've had the order read to you. I'm going
to dispense with formal approval as to form and
content on the documentary portion of the signing
and entry of the order.

30 So those are my reasons. Anything else that we need
to deal with?

E. GRAHAM: No. I just want it to be crystal clear

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5 for the record, Your Honour, that in addition to
fixing the preamble, we will also insert
Mr. Bentum's home address into the order, and we
can make the change to paragraph eight that Your
Honour directed with respect to the provision of
materials to the police.

10 THE COURT: Yes. Right. On the one hand, I don't
want to make an order that will definitely be
breached, and on the other hand, I don't want to
make an order that will be delayed because of the
logistics of getting the order to the police
station.

15 ...END OF EXCERPT

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14.
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Certification

FORM 3

Electronic Certificate of Transcript
Evidence Act, Subsection 5(2)

5 I, ROBYN KNOX, certify that this document is a true and accurate transcript of the recording of College of Physicians and Surgeons v. Mark Bentum in the Superior Court of Justice held at 361 University Avenue, Toronto, Ontario taken from Recording(s)
10 No. 4899_5-1_20250808_085438__10_AKAZAKLE.dcr which has been certified in Form 1 by K. Srikanthan.



15 August 12, 2025
(Date)

(Electronic signature of authorized person)

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