

Indexed as Prebtani (Re)

**THE DISCIPLINE COMMITTEE OF THE COLLEGE
OF PHYSICIANS AND SURGEONS OF ONTARIO**

IN THE MATTER OF a Hearing directed by the Executive Committee of the College of Physicians and Surgeons of Ontario, pursuant to Section 36(2) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, as amended

B E T W E E N:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. ALLY-KAREEM PYARALI HABIB PREBTANI

PANEL MEMBERS:

P. BEECHAM (CHAIR)
DR. M. GABEL
DR. W. KING
DR. K. BRACKEN
N. CHUMMAR

Hearing Date:

September 29, 2005

Decision/ Release Date:

September 29, 2005

DECISION AND REASONS FOR DECISION

The Discipline Committee (the “Committee”) of the College of Physicians and Surgeons of Ontario (the “College”) heard this matter at Toronto on September 29, 2005. At the conclusion of the hearing, the Committee stated its finding that the member had committed an act of professional misconduct and delivered its penalty order, with written reasons to follow.

ALLEGATIONS

The Notice of Hearing alleged that Dr. Prebtani committed professional misconduct:

1. under clause 51(1)(a) of the Health Professions Procedural Code (“the Code”) which is Schedule 2 to the *Regulated Health Professions Act, 1991*, in that he has been found guilty of an offence that is relevant to his suitability to practise; and
2. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”), in that he has engaged in conduct or an act or acts relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

RESPONSE TO THE ALLEGATIONS

Dr. Prebtani formally denied allegation No. 1 as set out in the Notice of Hearing. The College withdrew allegation No. 2.

EVIDENCE

Although Dr. Prebtani formally denied the allegation of professional misconduct, he did not contest the facts set out in a one paragraph Statement of Facts (Exhibit No. 2) filed by the College before the Committee, which provides:

1. On January 24th, 2003, Madam Justice Dunnet of the Ontario Superior Court of Justice found Dr. Prebtani guilty of assault, assault with a weapon and uttering a threat to cause death committed against his wife between August 1st and December 31st, 1999. Attached to [the] statement of facts are certified copies of the Indictment and the Conditional Sentence Order imposed on Dr. Prebtani which document the findings of guilt against Dr. Prebtani, and the sentence imposed.

The Committee was informed that the decision of Madam Justice Dunnet is currently under appeal by Dr. Prebtani. It is for that reason that Dr. Prebtani has formally denied the allegation, but he did not contest the fact that a finding of professional misconduct is appropriate on the present status of his criminal conviction, and would continue to be appropriate if his criminal appeal were ultimately dismissed.

FINDING

The Committee accepted as true the uncontested facts set out in the Statement of Facts. Having regard to these facts, and Dr. Prebtani's recognition that a finding of professional misconduct is appropriate on the present status of his criminal conviction, the Committee found that Dr. Prebtani committed professional misconduct:

- under clause 51(1)(a) of the Code in that he has been found guilty of an offence that is relevant to his suitability to practise.

In making this finding, the Committee had regard to the decisions of this Committee in *C.P.S.O. v. Sewchand* (2001) and *C.P.S.O. v. Sidhu* (2002), in both of which cases a criminal assault conviction against a family member led to a finding of professional misconduct. It was also significant for the Committee that Dr. Prebtani conceded that a

finding of professional misconduct was appropriate on the present status of his criminal conviction.

PENALTY DECISION AND REASONS

Counsel for the College and counsel for Dr. Prebtani made a joint submission regarding penalty. The joint submission proposed a penalty of suspension from practice for three months, two months of which would be suspended provided that Dr. Prebtani successfully completes a boundary course and a course in anger management acceptable to the College. The joint submission also proposed that Dr. Prebtani pay costs to the College in the amount of \$2,500.

EVIDENCE ON PENALTY

Counsel for the College referred to the decision in *Sewchand* where on similar facts a similar penalty was ordered.

Counsel for Dr. Prebtani tabled a Brief of Documents (Exhibit No. 3). It contained letters from colleagues of Dr. Prebtani at McMaster University, from patients and from a medical student whom Dr. Prebtani had supervised. It also contained Dr. Prebtani's *curriculum vitae* (documenting, in addition to his medical accomplishments, his extensive volunteer activities), other documentation from the press of those activities, and a letter of congratulation from the Minister of Citizenship and Immigration on being awarded a Volunteer Service Award. The documents also included a report from the Catholic Family Services Men's Antiviolence and Abuse Program, dated November 13, 2003, on Dr. Prebtani's successful completion of a court-ordered anger management program.

Counsel for Dr. Prebtani also submitted that regard should be had to the fact that the events for which the member was criminally convicted occurred six years ago. He continues to deny his guilt and his conviction is under appeal. He served his 12-month

conditional sentence, fulfilling all its terms. He has since remarried and his marriage is happy and stable.

Dr. Prebtani's counsel informed the Committee that Dr. Prebtani supports the joint submission on penalty even though it proposes a longer net suspension (provided that all conditions are met) than that ordered in the *Sewchand* decision. He noted that Dr. Prebtani cooperated fully with the College, and has borne the adverse effects of his criminal conviction. He also submitted that there is no evidence of any harm to patients. He concluded by submitting that Dr. Prebtani has paid his debt to society and that, apart from this single incident, his life and his career have been exemplary.

REASONS FOR PENALTY

The Committee accepted the joint submission on penalty. The Panel concluded that the proposed penalty appropriately addressed the goals of general and specific deterrence, and demonstrated to the public the profession's abhorrence of acts of this nature by a person in a position of trust. The Committee concluded that the proposed penalty gave proper regard to the objective of public protection, as well. The circumstances which gave rise to his criminal conviction appear unlikely to be repeated, and no evidence was introduced to suggest that Dr. Prebtani's professional practice was, in any sense, a concern.

ORDER

Therefore, the Committee on September 29, 2005 ordered and directed that:

1. The Registrar suspend Dr. Prebtani's certificate of registration for three (3) months, commencing 30 days after the date of this order, two (2) months of which suspension shall be suspended provided that Dr. Prebtani successfully completes, at his own expense, a College-approved Boundaries Course and a College-approved Anger Management Course, and provides proof thereof to the College, and;

2. Dr. Prebtani shall, within 30 days of the date of this order, pay to the College costs in the amount of \$2,500.00.