SUMMARY

DR. MANSOUR BENDAGO (CPSO# 67366)

1. Disposition

On December 6, 2017, the Inquiries, Complaints and Reports Committee (the Committee) required plastic surgeon Dr. Bendago to appear before a panel of the Committee to be cautioned with respect to complying with the Advertising Regulation. The Committee also directed that Dr. Bendago complete a 2-4 page written report on his compliance with the Advertising Regulation prior to attending the College to be cautioned.

2. Introduction

The complainant complained to the College that Dr. Bendago violated the Advertising Regulation (Ontario Regulation 114/94 made under the *Medicine Act*, *1991*, Part II) by using before-and-after photographs in a magazine.

Dr. Bendago responded that he had no connection with the magazine, and that the clinic he works for paid for the advertisement. He stated he did not see the advertisement before it was published. He indicated that although he was aware that the clinic placed advertisements in the magazine, he had no direct involvement in it. Before the complaint, he explained, he was unaware that before-and-after photographs in advertisements were considered testimonials under the Advertising Regulation. He noted that now that he is aware, he has advised his clinic to stop any further advertisements featuring before-and-after photographs. He stated he will ensure that he is compliant with the legislation going forward.

3. Committee Process

A General Panel of the Committee, consisting of public and physician members, met to review the relevant records and documents related to the complaint. The Committee always has

before it applicable legislation and regulations, along with policies that the College has developed, which reflect the College's professional expectations for physicians practising in Ontario. Current versions of these documents are available on the College's website at www.cpso.on.ca, under the heading "Policies & Publications."

4. Committee's Analysis

In the Committee's view, Dr. Bendago's advertisement in the magazine was a violation of subsection 6(2) of the Advertising Regulation which states that advertisements must not contain a testimonial or any comparative or superlative statements. Before-and-after photographs have been established to be testimonials under the Advertising Regulation.

The Committee did not accept Dr. Bendago's explanation that he was unaware that before-and-after photographs were testimonials under the Advertising Regulation. Dr. Bendago previously received advice from the College regarding his advertising practices. Therefore, he should have been aware of the Advertising Regulation.

Further, the Committee did not accept Dr. Bendago's statement that his clinic placed the advertisements without his knowledge. He was aware that the clinic had previously placed advertisements in the magazine, and should have known or watched for future advertisements placed by the clinic.

Although Dr. Bendago stated that he would ensure future advertisements were compliant with the Advertising Regulation, the Committee was not satisfied that he would change his behaviour without further guidance from the College.

As a result, the Committee determined that the appropriate response was to require Dr. Bendago to attend at the College to be cautioned in person to comply with the Advertising Regulation.