

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Christopher Michael Anjema, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the name or any information that identify the names of any patients referred to orally or in the exhibits at the hearing, under subsection 45(3) of the Health Professions Procedural Code (the Code), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, SO 1991, c. 18, as amended.

Subsection 93(1) of the Code, which is concerned with failure to comply with these orders, reads:

Every person who contravenes an order made under ... section 45 or 47... is guilty of an offence and on conviction is liable,

(a) in the case of an individual to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence; or

(b) in the case of a corporation to a fine of not more than \$50,000 for a first offence and not more than \$200,000 for a second or subsequent offence.

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

Citation: *College of Physicians and Surgeons of Ontario v. Anjema*, 2021 ONCPSD 20

Date: May 7, 2021

BETWEEN:

College of Physicians and Surgeons of Ontario

- and -

Dr. Christopher Michael Anjema

FINDING AND PENALTY REASONS

Revised Reasons: The text of the original reasons has been corrected. The corrections are integrated into the reasons at paragraph 25 (1), (2) as released July 8, 2021.

Heard: March 22, 2021, by videoconference

Panel:

Mr. Pierre Giroux (chair)
Mr. Jose Cordeiro
Dr. Melinda Davie
Mr. Michael Franklyn
Dr. Joanne Nicholson

Appearances:

Ms. Morgana Kellythorne and Ms. Sayran Sulevani, for the College
Mr. Neil Perrier, for Dr. Christopher Michael Anjema
Ms. Jennifer McAleer, Independent Legal Counsel to the Discipline Committee

Introduction

- [1] Dr. Anjema is an ophthalmologist who practices at the Anjema Eye Institute in Chatham. Since 2013, he has been the subject of concerns and complaints brought to the College by patients, other ophthalmologists, and the Ministry of Health and Long Term Care.
- [2] The College's Inquiries, Complaints and Reports Committee (ICRC) investigated and identified concerns with several aspects of Dr. Anjema's clinical care, patient communication, clinical documentation and billing practices. In 2019 and 2020, the ICRC referred the allegations now before this panel to the Discipline Committee.
- [3] Dr. Anjema admitted certain facts and did not contest others. Dr. Anjema admitted that he engaged in professional misconduct in that he had failed to maintain the standard of practice of the profession. He did not contest a finding of professional misconduct on the basis that he had engaged in conduct or an act or omission relevant to the practice of medicine that having regard to all of the circumstances would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.
- [4] We found Dr. Anjema had committed professional misconduct in that he had failed to maintain the standard of practice of the profession, and had engaged in disgraceful, dishonourable or unprofessional conduct. We accepted the parties' joint submission on penalty and directed Dr. Anjema's certificate of registration be suspended for four months, and ordered that he undergo a practice reassessment, appear for a reprimand and pay costs to the College. These are the reasons for our decision.
- [5] The issues before us are:
- a. Did Dr. Anjema fail to maintain the standard of practice of the profession in his care of patients?
 - b. Did Dr. Anjema engage in disgraceful, dishonourable or unprofessional conduct as a result of any of the following:
 - i. inappropriate submissions of claims to OHIP;

- ii. order and conduct of unnecessary tests and investigations;
- iii. communication with Patient A regarding medical services?

[6] If, on the basis of Dr. Anjema's admissions and plea of no contest, we find some or all the allegations are established, we must then decide whether the joint submission on penalty should be accepted or whether it meets the high threshold for rejection set by the Supreme Court of Canada.

Evidence on Liability: Admitted Facts

[7] The parties provided an Agreed Statement of Facts on Liability. Dr. Anjema admits the facts set out below and, further, admits these facts support a finding of professional misconduct on the basis that he failed to maintain the standard of practice of the profession.

Retinal Practice

[8] In 2013, the ICRC required Dr. Anjema to complete a specified continuing education or remediation program (SCERP) with respect to his retinal practice. In 2016 a vitreoretinal specialist conducted a reassessment. The vitreoretinal specialist found Dr. Anjema failed to maintain the standard of practice of the profession and exhibited a lack of knowledge, skill or judgement in respect of two patients with retinal disorders on whom he performed focal/grid laser treatment excessively. Dr. Anjema's lack of documentation regarding the laser settings made it difficult to assess the level of risk. These patients were billed for non-invasive diagnostic tests not clinically indicated. In the care of other patients, the vitreoretinal specialist found that the care provided met the standard of practice, but expressed concerns that:

- Clinical records were inadequate and often incomplete, including blank templates, with missing diagnosis and treatment plans, with only a billing code recorded.
- Dr. Anjema engaged in over-investigation in six charts.
- Test results were not present in the patient file for testing billed in some charts.

- Two billing codes were claimed when only one code ought to have been in two charts, and here were instances of billing for reasons that were not clear from the chart.
- There were questions regarding the accuracy of the instrumentation or the measurements done by technicians in the office.

Blepharoplasty Procedures

- [9] In 2014, the ICRC cautioned Dr. Anjema and required him to complete a SCERP following the investigation of a complaint by a patient who had a blepharoplasty (eyelid lift or removal of excess skin around the eye). The SCERP included a requirement that Dr. Anjema undergo a practice reassessment.
- [10] In 2017, an oculoplastic surgeon conducted the reassessment of Dr. Anjema's performance of blepharoplasty and found he fell below the standard of practice of the profession with respect to a lack of post-operative photos in the charts, incomplete documentation and records, a lack of sufficient patient-specific information and inaccurate operative reports.

Record-keeping, Documentation and Clinical Care

- [11] In 2016, a Registrar's investigation into Dr. Anjema's practice was initiated after the Ministry of Health and Long-Term Care raised concerns. Experts retained by the Ministry and the College identified concerns regarding Dr. Anjema's care and billing in the majority of the charts reviewed. Specifically, numerous deficiencies were found in medical record keeping including lack of documentation to support diagnosis, treatment, procedures and investigations. As well, important discussions with patients were not documented.
- [12] The reviewing experts found that Dr. Anjema had performed repeated investigations without clinical indication and, conversely, failed to document performing or ordering investigations that were clinically indicated. Dr. Anjema made diagnoses without documenting the requisite evidence or examination, failed to make appropriate diagnoses, and, in three cases, failed to communicate results to patients' optometrists or family doctors. Finally, Dr. Anjema performed certain

treatments without supporting clinical documentation, and without clinical indication. In seven charts he followed up within an inappropriate timeframe.

Care of Patient A

[13] In 2017, following Patient A's complaint to the College, a general ophthalmologist reviewed his chart and concluded Dr. Anjema's treatment of Patient A did not meet the standard of practice of the profession. Despite repeated visits and clear evidence, he failed to diagnose and treat Patient A's glaucoma. Patient A is now legally blind.

Evidence on Liability: Uncontested Facts

[14] When a member enters a plea of no contest to an allegation, the member agrees that:

- a. we may accept as correct the facts alleged against the member on that allegation for the purposes of the College proceedings only.
- b. we may accept that those facts constitute professional misconduct or incompetence or both for the purposes of the College proceedings only.
- c. we can dispose of the issue of what finding ought to be made without hearing evidence.

[15] For the purposes of this proceeding, Dr. Anjema does not contest the facts set out in paragraphs 16-20 below. Further, having regard to all the circumstances, he does not contest that the facts set out below constitute professional misconduct and that his conduct, acts or omissions would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Communications with Patient A

[16] Patient A complained about communications with Dr. Anjema and his staff regarding his options for cataract surgery. Patient A was led to believe that, by paying extra and buying a "silver level" package, he would receive an upgraded lens not covered by OHIP and avoid a long wait for OHIP insured services.

[17] In the Agreed Statement of Facts and Statement of Uncontested Facts Dr. Anjema explains that the “silver level” package only included testing and not a lens upgrade. Dr. Anjema does not contest that this was inconsistent with information provided to Patient A by Anjema Eye Institute staff. Dr. Anjema also does not contest that inadequate information was provided to Patient A about the purchase.

[18] In addition, Dr. Anjema does not contest Patient A’s understanding that purchasing the upgraded lens through the “silver level” package would permit him to avoid a long wait for cataract surgery. Dr. Anjema does not admit, but does not contest, that he was responsible for the poor communication on the part of his staff.

Billings to OHIP

[19] Dr. Anjema does not admit but does not contest that the 2017 review of blepharoplasty procedures found that he submitted claims to OHIP for services that he also billed to the patients.

[20] Dr. Anjema does not admit but does not contest that, where he failed to maintain required clinical documentation, as noted above, his submission of related claims to OHIP was not appropriately supported.

Finding

[21] Based on the admissions made and on the uncontested facts, we find that Dr. Anjema committed an act of professional misconduct by:

- I. failing to maintain the standard of practice of the profession in his care of patients as required by paragraph 1(1)2 of Ontario Regulation 856/93 made under the Medicine Act, 1991, SO 1991, c. 30; and
- II. engaging in 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 contrary to paragraph 1(1)33 of the same regulation.

Penalty and Costs

- [22] The parties provided an Agreed Statement of Facts Regarding Penalty and a joint submission on penalty and costs. They proposed Dr. Anjema receive a public reprimand, a four-month suspension of his certificate of registration, and that his practice be reassessed by a College appointed investigator six months after he returns to practice. They also agree that Dr. Anjema would pay costs associated with a one-day hearing.
- [23] Although we have discretion to accept or reject a joint submission on penalty, we should not depart from a joint submission unless the proposed penalty would bring the administration of justice into disrepute or is otherwise not in the public interest. *R. v. Anthony-Cook*, 2016 SCC 43.
- [24] When assessing whether a proposed penalty is appropriate, we will consider protection of the public, maintaining the integrity of the profession, and maintaining public confidence in the College's ability to regulate the profession in the public interest. The penalty should also serve as a specific deterrent to the member and a general deterrent to the profession, as well as, if appropriate, an opportunity for the member's rehabilitation. Other principles considered include denunciation of the misconduct and proportionality.

Evidence on Penalty

Aggravating Factors

- [25] In assessing the proposed penalty, the following factors were considered as aggravating.
1. Dr. Anjema had significant and serious interactions with the College through the ICRC and Registrar's investigations. The Agreed Statement of Facts Regarding Penalty details undertakings, cautions and reassessments by the College following complaints in 2013 and 2014. Between 2013 and 2017, the ICRC required him to complete three SCERPs to address concerns with his clinical practice and knowledge. In 2018, in lieu of an ICRC order, Dr. Anjema agreed to an interim undertaking to perform blepharoplasty procedures only under the guidance of a clinical supervisor. In 2019 and in 2020, that

undertaking was amended to provide even broader supervision of his practice. Despite these prior interactions the conduct at issue before us mirrors conduct previously identified as problematic. Despite the cautions and remedial supports received Dr. Anjema continued to have persistent and pervasive difficulties with patient care, record-keeping and practice management prior to the undertaking in 2018.

2. Missed opportunities for diagnosis and management of common ophthalmological problems had serious and devastating consequences to Patient A.
3. Dr. Anjema's misconduct was not limited to clinical care, but also involved submission of inappropriate claims to OHIP, and a failure to communicate effectively and transparently to patients who were billed for non-insured services. We found this conduct was particularly egregious.

Mitigating Factors

[26] The following factors were considered as mitigating.

1. Dr. Anjema has taken a medical record keeping course and several CME programs related both to patient care and to communications.
2. He was fully cooperative with College appointed reviewers.
3. He has agreed to repay the Ministry of Health and Long-Term Care for claims that were unsupported by the medical records. There is evidence of a decline in his submissions to OHIP between 2015 and 2019 for procedures identified as concerning during the ICRC investigations, which may indicate a shift in the pattern of his practice.
4. We accept Dr. Anjema cooperated with the College. By his admissions and plea of no contest, Dr. Anjema significantly reduced the time and cost to the College of a contested hearing.

Prior Decisions

- [27] Although the Committee's prior decisions are not binding, we accept that, as a principle of fairness, like cases should be treated alike. The decisions discussed below proceeded on the basis of admissions on liability and were helpful in our assessment of whether the proposed penalty is appropriate.
- [28] In *Ontario (College of Physicians and Surgeons of Ontario) v. Billing*, 2017 ONCPSD 30, Dr. Billing pled no contest to failure to maintain the standard of practice of the profession arising out of allegations of multiple deficiencies in record keeping and infection control. He had no prior discipline history but, unlike Dr. Anjema, there was no evidence of any previous engagement with the College. In further contrast with this matter, there was no evidence that any of Dr. Billing's patients experienced actual harm as a result of his misconduct. While the absence of harm is not a mitigating factor, the fact that some of Dr. Anjema's patients suffered harm is an aggravating factor.
- [29] Dr. Billing took the position that a suspension was unwarranted. The Committee disagreed and directed a two-month suspension as well as ordering a reprimand, a 12-month period of supervision and a reassessment of his practice to occur three months after his suspension. He was also ordered to pay costs.
- [30] In *Ontario (College of Physicians and Surgeons of Ontario) v. Alexander*, 2018 ONCPSD 60, the Committee found Dr. Alexander had misled the College by backdating agreements for opioid therapy for several patients. The matter proceeded on the basis of admissions and a joint submission on penalty. Dr. Alexander had two earlier findings of professional misconduct by the Discipline Committee and had been the subject of complaints and a caution by the ICRC. The Committee found he had failed to remediate.
- [31] In accepting the joint submission and ordering a reprimand, a six-month suspension and terms conditions and limitations on his certificate of registration, the Committee considered Dr. Alexander's cooperation with the College, his acknowledgment of the serious deficiencies in his clinical practice and that he had voluntarily taken steps to remediate prior to the appearance before the Committee.

- [32] We find Dr. Anjema's circumstances fall somewhere between these two examples. Unlike Dr. Alexander, Dr. Anjema has no prior discipline history, which was an aggravating factor supporting the 6-month suspension on Dr. Alexander. In contrast with Dr. Billing, in which there was no evidence of patient complaints or patient harm, Dr. Anjema was the subject of patient complaints and his misconduct had significant consequences on his patients, which is an aggravating factor.
- [33] Two further cases were helpful with respect to the issue of inappropriate billing.
- [34] In *Ontario (College of Physicians and Surgeons of Ontario) v. Otto*, 2015 ONCPSD 38, the physician, a family doctor, was referred to the College after the Ministry of Health and Long Term Care expressed concerns regarding billing for the Special Diet Allowance (SDA).He submitted claims for multiple patients from the same families, without appropriate diagnosis, investigation or documentation. This led to a College investigation which determined that both Dr Otto's record-keeping and clinical care fell below the standard of practice, and that this conduct constituted disgraceful, dishonorable or unprofessional behaviour. Dr. Otto admitted the allegations and there was a joint submission on penalty. He received a public reprimand, a two-month suspension, was fined \$10,000, and terms, conditions and limitations were placed on his certificate of registration including the requirement that he take courses in ethics, medical record keeping, and that any Special Diet Allowance applications be monitored and co-signed by a College approved physician. He was also ordered to pay costs.
- [35] In *Ontario (College of Physicians and Surgeons of Ontario) v. Michael*, 2020 ONCPSD 43, the physician, an obstetrician/gynecologist, submitted billings to OHIP which did not comply with the requirements of the schedule of benefits and resulted in significant over billing. Dr. Michael pled guilty and was convicted of contravening the *Health Insurance Act*. He was required to make restitution in the amount of \$545,000.00. Before the College the matter proceeded on an agreed statement of facts on liability and penalty. Dr. Michael received a reprimand, a one-month suspension, and was required to pay costs.
- [36] Both *Michael* and *Otto* involved inappropriate billing in respect of a single code (for Dr. Otto the SDA application code KO55 and for Dr. Michael the new patient

consult code A935, which has a time requirement). Dr. Otto was fined and, as part of the criminal proceeding against him, Dr. Michael was ordered to make restitution to the Province. Dr. Anjema used the E227 code inaccurately and voluntarily reimbursed the Province prior to this hearing. However, there were other areas of concern in Dr Anjema's billing practices, beyond his use of the E227 code, which we find increased the seriousness of his misconduct and support a longer suspension.

Conclusion

- [37] Dr. Anjema's misconduct was multifaceted and permeated his practice in its entirety over many years. He failed to maintain the standard of practice of the profession in his care of patients. Most concerning was his lack of appropriate record-keeping. Accuracy and completeness of the medical record is an essential component of quality patient care. Poor record-keeping exposes patients to harm. Lack of clarity and poor communication leaves patients vulnerable to missed and/or inaccurate diagnosis and follow up. This is what happened to Patient A, who now lives with a permanent and serious disability.
- [38] We were especially concerned that, although the majority of Dr. Anjema's patient records were devoid of basic details such as test results, diagnosis, management and treatment, billing codes were there, recorded and submitted, sometimes in duplicate, to the patients.
- [39] Certain specialties, of which ophthalmology is one, can bill patients for medical services outside of what is funded by the province. Such specialists have a particular responsibility to ensure the care and services they provide are always of benefit to the patient. This is a core value of professionalism, and the mainstay of the trust that the public places on physicians.
- [40] The threshold for rejecting a jointly proposed penalty is high, and that threshold is not met in this case. We accept the joint submission. The four-month suspension will act as a specific deterrent to Dr. Anjema, and a general deterrent to the profession. The public reprimand will further denounce his misconduct. After his suspension, reassessment of his practice by a College-appointed assessor will

allow for a high level of scrutiny, thus protecting the public and maintaining the integrity of the profession.

[41] Dr. Anjema has voluntarily taken steps towards remediation. We hope that during his four-month suspension he will further reflect on how Patient A, and others he has harmed, are affected by his misconduct. The requirement for further reassessment supports an ongoing interest in protection of the public.

[42] Costs are always at the discretion of the Committee. In this case the parties have reached an agreement on costs which is reasonable.

[43] We set out our finding in paragraph (1) of our order of March 22, 2021. With respect to penalty and costs, we ordered and directed as follows:

1. The Discipline Committee orders Dr. Anjema to attend before the panel to be reprimanded.
2. The Discipline Committee directs the Registrar to suspend Dr. Anjema's certificate of registration for a period of four (4) months, commencing from July 1, 2021 at 12:01 a.m.
3. The Discipline Committee directs the Registrar to place the following terms, conditions and limitations on Dr. Anjema's certificate of registration, effective immediately:
 - I. Dr. Anjema shall comply with the College Policy "Closing a Medical Practice" in respect of his period of suspension.
 - II. Within approximately six (6) months of completion of his period of suspension, Dr. Anjema shall undergo a reassessment of his practice by a College-appointed Assessor(s), which shall include but not be limited to direct observation of Dr. Anjema's practice, a review of a selection of Dr. Anjema's medical records, an interview with Dr. Anjema, and any other tools deemed necessary by the College (the "Reassessment"). The Assessor(s) shall report the results of the Reassessment to the College.
 - III. Dr. Anjema shall inform the College of each and every location where he practices, in any jurisdiction (his "Practice Location(s)") within fifteen (15) days of this Order and shall inform the College of any and all new

Practice Locations within fifteen (15) days of commencing practice at that location until the Reassessment has been completed.

- IV. Dr. Anjema shall consent to the sharing of information between the Assessor(s) and the College as deemed necessary or desirable in order to fulfill their obligations.
 - V. Dr. Anjema shall consent to the College making enquiries of the Ontario Health Insurance Program, the Narcotics Monitoring System and/or any person or institution that may have relevant information, in order for the College to monitor his compliance with this Order and shall promptly sign such consents as may be necessary for the College to obtain information from these persons or institutions.
 - VI. Dr. Anjema shall co-operate with unannounced inspections of his office practice and patient charts by the College for the purpose of monitoring and enforcing his compliance with the terms of this Order. And
 - VII. Dr. Anjema shall be responsible for any and all costs associated with implementing the terms of this Order.
4. The Discipline Committee orders Dr. Anjema to pay costs to the College in the amount of \$10,370 within thirty (30) days of the date of this Order.

Reprimand

[44] At the conclusion of the hearing, Dr. Anjema waived his right to an appeal under subsection 70(1) of the Code and we administered the public reprimand by videoconference.

In the matter of:

College of Physicians and Surgeons of Ontario

- and -

Dr. Christopher Michael Anjema

Reprimand delivered by the Discipline Committee
by videoconference on Monday, May 22, 2021

*****Not an official transcript****

Doctor Anjema:

Dr. Anjema, the Committee is profoundly disappointed that, despite the fact that concerns with your practice were first raised in 2013 and you were given the opportunity to remediate, this Committee has today found you have engaged in acts of professional misconduct.

In order to assist you in bringing your practice skills up to standards, the College previously required the completion of a specified continuing education or remediation program -- a SCERP -- that included preceptorship, and you failed to ensure that you were maintaining the standards of the profession, and you engaged in conduct which you should have known would be regarded by the profession as disgraceful, dishonourable, and unprofessional.

It seems to this Committee that you put your own interests ahead of your patients'. The Committee is heartened to see that you have begun to make changes including further professional education, practice changes and repayment to the Ministry of Health and Long-Term Care related to erroneous billing claims.

While these changes are commendable, they should not have been necessary in the first place. The College must protect the public and send a clear message to the profession that your misconduct is unacceptable. The suspension of your certificate of registration for four months and the ongoing terms, conditions, and limitation to that certificate reflect those principles. We expect that you will continue your efforts to remediate your practice, and this will be your only appearance before this Committee.