

## NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Arun Kumar Jain, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of patients or any information that could disclose the identity of patients under subsection 45(3) of the Health Professions Procedural Code (the “Code”), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, as amended.

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

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.

**Indexed as: Jain (Re)**

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

**IN THE MATTER OF** a Hearing directed  
by the Registrar to the Discipline Committee of  
the College of Physicians and Surgeons  
of Ontario, pursuant to Section 73  
of the *Health Professions Procedural Code*

**BETWEEN:**

**DR. ARUN KUMAR JAIN**

**- and -**

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

**PANEL MEMBERS:**

S. DAVIS  
DR. M. GABEL  
S. BERI  
DR. E. STANTON  
DR. M. DAVIE

**Hearing Date:** October 16, 2008  
**Decision Release Date:** October 16, 2008  
**Release of Written Reasons Date:** January 13, 2009

**PUBLICATION BAN**

## **DECISION AND REASONS FOR DECISION**

Dr. Arun Kumar Jain made an application to the College of Physicians and Surgeons of Ontario for reinstatement of his certificate of registration in relation to his revocation for professional misconduct and incompetence on August 19, 1999. The Registrar referred Dr. Jain's application for reinstatement to the Discipline Committee, and the Committee heard the application on October 16, 2008. The College did not oppose the application. At the conclusion of the reinstatement hearing, the Discipline Committee delivered a written order, with written reasons to follow, directing the Registrar to issue to Dr. Jain a certificate of registration subject to specified terms, conditions and limitations.

## **BACKGROUND**

Dr. Arun Kumar Jain is a 53-year-old physician who obtained his medical degree from the University of Ottawa in 1977. Between 1977 and 1982, Dr. Jain completed a General Surgery Residency at the Royal Victoria Hospital at McGill University. Between 1982 and 1984, Dr. Jain completed a Cardio-vascular and Thoracic Surgical Residency at McGill University. Dr. Jain received his Certificate of Registration in 1978. While Dr. Jain did not write his General Surgery exams, he passed the written Fellowship exams for cardiac, vascular and thoracic surgery as well as the oral exams for thoracic and vascular surgery, but Dr. Jain did not pass the oral exam for cardiac surgery despite three attempts. As a result, Dr. Jain did not receive a Royal College Fellowship. Between 1984 and 1992 Dr. Jain practiced general, vascular and thoracic surgery in Edmundston, New Brunswick. In 1992, Dr. Jain traveled to India and on his return to Canada, Dr. Jain worked from April to September, 1993 as a General Practitioner in walk-in clinics in the Greater Toronto Area. In October 1993, Dr. Jain opened his own private practice as a General Practitioner. Dr. Jain was out of Canada from December 10, 1993 until April of 1994. On his return to Canada, Dr. Jain opened a family practice in Gervais between June 1, 1994 and October 1, 1994. At that point in time, Dr. Jain returned to Toronto and opened a medical surgical facility.

In the matter that led to the revocation of Dr. Jain's certificate of registration in 1999, the College received, by way of letter, a patient complaint dated April 25, 1995. As a result of the investigation, Dr. Jain had his certificate of registration suspended by the Executive Committee effective March 31, 1996. Following a referral of allegations of professional misconduct and incompetence, Dr. Jain appeared before the Discipline Committee on March 11 and 12, 1999 for the hearing.

At the hearing it was alleged that Dr. Jain was guilty of professional conduct in that he:

1. failed to maintain the standard of practice of the profession contrary to clause 1(1)1 of Ontario Regulation 865/93 made under the *Medicine Act, 1991*;
2. contravened subsection 2(5) of Ontario Regulation 865/93 made under the *Medicine Act, 1991* (registration) and Part V of Ontario Regulation 241/94 made under the *Medicine Act, 1991* (records) contrary to clause 1(1)27 of Ontario Regulation 856/93 under the *Medicine Act, 1991*;
3. engaged 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 clause 1(1) 33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*;
4. permitted, counselled or assisted a person who is not a member of the College to perform acts which should be performed by a member contrary to clause 1(1) 29 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*;
5. contravened a federal law, specifically the *Narcotic Control Act* and the regulations made thereunder, the purpose of which is to protect public health and the contravention of which is relevant to Dr. Jain's suitability to practice contrary to clause 1(1) 28 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*.

It was also alleged that Dr. Jain was incompetent as defined in section 52 of the *Health Professions Procedural Code* (the "Code") which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18.

Dr. Jain pleaded guilty to allegations 1, 2, 3 and 5 (allegation 4 was withdrawn by the College). Dr. Jain also pleaded guilty to the allegation of incompetence.

The Discipline Committee found, among other things, that Dr. Jain exposed multiple patients to unnecessary and unacceptable risks in administering an anaesthetic and in performing surgical procedures in a clinic setting when it was inappropriate to do so, performing surgical procedures on a number of patients when it was inappropriate to do so, administering anaesthetic when it was inappropriate to do so and administering a toxic dose of anaesthetic on one occasion. In addition he had breached an earlier undertaking with the College not to prescribe narcotics to his wife.

The Discipline Committee accepted the guilty pleas and ordered the following penalty:

- (i) Dr. Jain's certification of registration be revoked
- (ii) Dr. Jain receive a recorded reprimand

Dr. Jain's certificate of registration was revoked effective August 19, 1999.

## **APPLICATION FOR REINSTATEMENT**

### ***Relevant Statutory Provisions***

The following provisions of the *Code* are relevant to applications for reinstatement:

72(1) A person whose certificate of registration has been revoked or suspended as a result of disciplinary or incapacity proceedings may apply in writing to the Registrar to have a new certificate issued or the suspension removed.

...

(2) An application under subsection (1) shall not be made earlier than,

(a) One year after the revocation or suspension; ...

73(1) The Registrar shall refer the application, if the revocation or suspension was on the grounds of,

(a) professional misconduct or incompetence, to the Discipline Committee.

...

(5) A panel may, after a hearing, make an order doing any one or more of the following:

1. Directing the Registrar to issue a certificate of registration to the applicant.
2. Directing the Registrar to remove the suspension of the applicant's certificate of registration.
3. Directing the Registrar to impose specified terms, conditions and limitations on the applicant's certificate of registration.

In applications for reinstatement the burden of proof is on the applicant to establish suitability for reinstatement of his or her certificate of registration. The standard of proof is on the balance of probabilities.

In considering this matter the Discipline Committee had regard to the submissions made by counsel for Dr. Jain and counsel for the College and reviewed and relied upon the evidence that was filed on consent. The Discipline Committee considered and applied the relevant sections of the Code and noted that the statute is silent on the criteria that the Committee should apply on an application for reinstatement. Counsel for Dr. Jain provided a Brief of Authorities and reviewed with the Committee the considerations that had been applied in prior cases by the Discipline Committee on such an application; see *Kulkarni v. CPSO* (2004) at pp. 31-32, *McHugh v. CPSO* (2005) at p. 8, and *Waxman v. CPSO* (2008) at pp. 9-10.

These considerations included:

- i) the facts giving rise to the revocation;
- ii) changes in the physician's circumstances since the time of revocation;
- iii) the success of the physician's rehabilitation, including insight into past misconduct;
- iv) the physician's current mental health and future prognosis;

- v) the physician's current competency, skill and fitness to practice;
- vi) the physician's present character; and,
- vii) the public interest, particularly the protection of the public.

The Discipline Committee must be satisfied that the public would be adequately protected if the physician were to be readmitted into practice.

### **POSITION OF THE PARTIES**

Counsel for Dr. Jain proposed terms, conditions and limitations for reinstatement which he submitted should be sufficient to satisfy the Committee's concern for the protection of patients from the type of conduct that led to Dr. Jain's revocation.

Counsel for the College did not oppose reinstatement, but rather, submitted that reinstatement should be subject to specified terms, conditions and limitations. However, College counsel was not in agreement with the terms, conditions and limitations as proposed by counsel for Dr. Jain. The only substantive difference between the proposed terms, conditions and limitations as outlined by the parties was the College's proposed requirement for the successful completion of a structured surgical assistant training program with a minimum duration of three months.

The Committee heard arguments from both parties as to whether the successful completion of a training period should be included as a term and condition of reinstatement.

## THE EVIDENCE

### *Overview of the Issues*

In its approach to this application, the Committee reviewed a number of relevant considerations identified by counsel for the parties and independent legal counsel for the Committee. All agreed that adequate protection of the public is a primary consideration. A fundamental issue on this application is whether Dr. Jain would represent a risk to the public (including patients) and whether any such risk is manageable with the imposition of terms, conditions and limitations on his certificate of registration. More specifically, the Committee considered whether the evidence demonstrates:

- that there has been a change in Dr. Jain's circumstances since the revocation;
- that Dr. Jain has an understanding of, and insight into, his past misconduct including that which led to his revocation;
- that Dr. Jain has insight and understands the harmful impact of his actions on his victims;
- Dr. Jain's current mental health;
- that Dr. Jain would not pose a risk to patients;
- that Dr. Jain has demonstrated good character, honesty and good faith in his dealings with the community, the College physicians he has seen, and with the Discipline Committee;
- that the proposed reintegration into practice is safe and reasonable.

The Committee was mindful of its obligation to ensure that Dr. Jain, were his certificate reinstated, possesses satisfactory competence, skill and fitness to practise.



### *Summary of the Evidence*

The facts were not substantially in dispute and were established by way of an Agreed Statement of Facts, a Joint Book of Documents and Exhibits containing evidence in support of the application and the testimony of Dr. Jain.

Counsel for the College did not oppose the application for reinstatement provided that certain specified terms, conditions and limitations were imposed on Dr. Jain's certificate of registration.

In his submissions to the Committee, counsel for Dr. Jain reviewed the following mitigating circumstances, reports, and letters regarding Dr. Jain which were addressed or included in the Joint Book of Documents.

### Mitigating Circumstances

Counsel for Dr. Jain reviewed the mitigating circumstances that resulted from extensive financial, emotional and marital stressors that were present in Dr. Jain's life at the time of the patient complaint which resulted in Dr. Jain's certificate of registration being revoked. Prior to 1992, Dr. Jain was encountering significant financial difficulties. Dr. Jain moved to India in 1992 and while in India, Dr. Jain operated a successful clinic. However, this changed when his wife was kidnapped, held hostage by terrorists, tortured and suffered multiple injuries which did not completely heal, causing severe pain requiring narcotics, and ultimately contributing to narcotic addiction. As a result of the kidnapping, they lost all of their financial assets in both Canada and India, including title to the clinic in India. Dr. Jain and his wife returned to Canada in 1993. In December 1993, Dr. and Mrs. Jain returned to India and were again detained and had their money taken. On returning to Canada in April 1994, Dr. and Mrs. Jain found that their home and clinic were locked up for non-payment of rent. Counsel for Dr. Jain emphasized that the mitigating circumstances did not excuse Dr. Jain's misconduct and serious lack of judgment.

However, he pointed out that the financial, emotional and marital stressors which were present at the time of the original patient complaint had been resolved.

Reports of January 25, 1999 and February 20, 1999 from Dr. A

Dr. Jain was assessed by Dr. A on January 15, 1999 at the request of his former legal counsel. Mrs. Jain was assessed by Dr. A on January 22, 1999 and February 4, 1999, also at the request of Dr. Jain's former legal counsel. Dr. A had previously seen Dr. Jain and his wife September 12, 1996 for addictions on behalf of the College of Physicians and Surgeons of Ontario, and had filed with the College a detailed report.

Dr. A's opinion with regards to Dr. Jain, as outlined in his report of January 25, 1999, was as follows:

- (i) Dr. Jain was not a chemically dependent physician and never has been;
- (ii) Dr. Jain did not have any psychiatric illness;
- (iii) Dr. Jain was a kind and caring individual;
- (iv) Dr. Jain's behaviour had been arrested (related to prescribing narcotics to family members);
- (v) Dr. Jain has shown remorse and suffered greatly with the loss of his number one passion in life, medicine, and his ability to practise;
- (vi) It would be appropriate for the College to allow Dr. Jain to have a restricted licence that allowed him to practice as an assistant surgeon under supervision, with no right to prescribe narcotics;
- (vii) Dr. Jain should be required to undergo monitoring and surveillance which would include periodic urine testing as well as annual assessments by a substance abuse specialist;
- (viii) Dr. Jain and Mrs. Jain should see a psychiatrist for regular consultations.

Dr. A's opinion with regards to Mrs. Jain, as outlined in his report of February 20, 1999 was as follows:

- (i) Mrs. Jain was in a remission state from her chemical dependence;
- (ii) Mrs. Jain was very supportive of her husband and his reentry into the medical profession;
- (iii) Mrs. Jain felt some guilt and remorse for her past behaviour including the manipulation, and felt sadness for having put her husband in a position of difficulty in the past.

Report of November 6, 1997 from Dr. B

At the request of his former legal counsel, Dr. B assessed Dr. Jain and responded to four specific questions of counsel. At the time of the assessment, Dr. B was a Professor of Psychiatry at McGill University. The questions posed by counsel to Dr. B and Dr. B's opinion on each are as follows:

*Question 1:* Is Dr. Jain currently suffering from any disorders, mental or otherwise? If so, would those disorders affect his ability to practise medicine?

Dr. B responded by indicating that it was his opinion that Dr. Jain did not suffer from any mental or physical disorders and that, therefore, the question of disorders affecting his ability to practise medicine did not arise.

*Question 2:* Do you have any recommendations for therapy or treatment for Dr. Jain?

Dr. B recommended a short (six month) individual therapy for Dr. Jain based upon his lack of awareness of the dynamics of his personality and its impact in critical situations as having been the major factor in creating his difficulties. He also recommended a longer term couple therapy (one year) for Dr. Jain and his wife.

*Question 3:* Can you offer any insight as to why Dr. Jain might have behaved in an unacceptable manner detailed in the attached materials prepared by the College both in providing narcotics to his wife and his treatment of patients in his clinic?

Dr. B responded that Dr. Jain's personality was basically of a perfectionistic type which is associated with high moral values. Dr. B indicated that the relationship of Dr. Jain with his wife had been of a non-assertive guilt-ridden nature, and coupled with his naturally sympathetic attitude towards her suffering, brought about his unacceptable behaviour in providing her with narcotics. Dr. B was also of the opinion that this sympathetic attitude and non-assertive nature allowed some patients and/or relatives to persuade him to give certain treatments which were judged to be unacceptable by the College of Physicians and Surgeons of Ontario. Dr. B believed that the additional key element had been Dr. Jain's lack of awareness of the psycho-dynamics he had been functioning under.

*Question 4:* Would it be safe for Dr. Jain to return to practice with some form of restricted licence and, if so, what restrictions, conditions and terms would you consider necessary to ensure the protection of the public?

Dr. B responded that it was his opinion that it would only be necessary for Dr. Jain to work under strict supervision for the duration of therapy (one year). After that, his awareness of the problem and the degree of change expected from the therapeutic process would certainly ensure the safety of the public. It was also Dr. B's opinion that Dr. Jain never acted dishonestly with a profit motive and that the overriding motivation had been the relief of suffering.

#### Report of July 11, 2008 from Dr. C

Dr. C is a forensic psychiatrist with the Law and Mental Health Program and the Centre for Addiction and Mental Health. He is an Associate Professor of Psychiatry at the University of Toronto, a manager of the Forensic Psychiatry Unit, Behavioural Sciences Section with the Ontario Provincial Police, and a Consultant Forensic Psychiatrist to the Royal Canadian Mounted Police. The assessment was requested by counsel for Dr. Jain. Dr. C was asked to determine whether or not Dr. Jain is suffering from a psychiatric

disorder that would preclude him from engaging in the practice of medicine. Dr. C conducted an interview with Dr. Jain, and reviewed relevant documentation, including the following material:

- Discipline Committee Notice of Hearing dated February 16, 1996 and Appendices “A” to “D”;
- Executive Committee Order dated March 8, 1996;
- Agreed Statement of Facts dated March 11, 1999;
- Notice of Suspension of Certificate of Registration for Independent Practice of Dr. Jain on April 18, 1996;
- Assessment of Dr. Jain by Dr. A dated January 25, 1999;
- Assessment of Mrs. Jain by Dr. A dated February 20, 1999;
- Transcript of the March 11, 1999 Disciplinary Hearing;
- Joint Book of Documents from the 1999 hearing;
- Disciplinary Committee Decision and Reasons for Decision, dated August 19, 1999;
- Notice of Revocation of Certificate of Registration for Independent Practice dated 19 August 1999;
- Letter from Dr. Jain to the Registrar regarding the issuance of an educational licence by the College, dated September 3, 2000, and the Registrar’s response dated September 15, 2000;
- Letter from the Manager of the Hearings Office to Dr. Jain (with attachments) dated October 5, 2007, regarding an application for reinstatement to the College;

- Letter from Dr. Jain to the Registrar dated October 15, 2007, and the Registrar's response dated November 5, 2007, regarding an application for reinstatement;
- Correspondence from the College of Physicians and Surgeons of New Brunswick, regarding an application for reinstatement;
- Dr. M's offer to allow Dr. Jain to work with him as an Assistant Cardiovascular and Thoracic Surgeon at St. Michael's Hospital in December, 1998;
- Reference letters for Dr. Jain provided to his legal counsel in 1999;
- Dr. Jain's Continuing Medical Education ("CME") credits from 1995 to 2008 and other relevant documentation and conducted an interview with Dr. Jain.

Dr. C's opinion, as outlined in his report of July 11, 2008, was as follows:

- (i) Dr. Jain is not suffering from a psychiatric disorder that would preclude him from engaging in the practice of medicine. He is intelligent and insightful of his short comings, and multi-factorial factors, that led to his inappropriate actions. Due to his insight he is at low risk for repeating the actions that led to the revocation of his licence.
- (ii) If Dr. Jain is allowed to return to practice he should be under the tutelage or mentorship of a family practitioner who could gauge his skills.

Dr. C indicated that Dr. Jain was forthcoming with his information and that he expressed remorse for the conduct which led to his difficulties. Dr. C also indicated that there was no evidence of a disorder of thought or mood and that Dr. Jain has never experienced perceptual abnormalities. It was also stated that there was a denial of both suicidal and homicidal ideation and that no cognitive defects were evident.

### Record of Continuing Medical Education

Counsel for Dr. Jain reviewed the CME credits that Dr. Jain has obtained since 1995. Dr. Jain has participated in 120 CME events since that time, accumulating a total of 1,200 MAINPRO Credits, of which 18.75 credits were related to surgical specialties. Attached to the Statement of Facts was a detailed summary of Dr. Jain's professional development activities since 1995, and a copy of his personal learning diary.

### Curriculum Vitae (Other Activities)

Counsel for Dr. Jain reviewed with the Committee Dr. Jain's CV since the initial suspension of his certificate of registration in 1996. Between 1997 and 1998 Dr. Jain completed OREA Phases I-III at the OREA Real Estate College in Toronto. Between 1999 and 2002, Dr. Jain completed Articling programs in Principles of Appraisal, Real Property Law, Mortgage Financing and Real Estate Investment Analysis. Dr. Jain also completed a Professional Real Estate Brokerage course in 2007. He obtained a Provisional Real Estate Licence in 1998, a permanent Real Estate Licence in 2000, a Real Estate Broker's Licence in 2007, a Real Estate Broker of Record Licence in 2008, and a Mortgage Broker's Licence in 2008. Between 1998 and 2008 he has been a Real Estate Salesperson. More recently, Dr. Jain has been a President/Broker of Record with TJT Realty and TJT Financial Corporation, and a Director of Strateva Consulting.

### Character References

*Letter dated October 15, 2008 from Mr. N:* Mr. N is a Broker of Record/Owner associated with a realty firm. Dr. Jain was employed at Mr. N's brokerage from 2005 to 2008 as a licensed Real Estate Broker. In his letter, Mr. N stated that Dr. Jain "acted and performed as a professional with honesty and integrity to the clients and brokerage."

*Letter dated October 10, 2008 from Dr. O:* Dr. O is a Family Physician at a medical centre in the Toronto area. In his letter, he stated that he has known Dr. Jain since 2004. Dr. Jain had been working in an administrative capacity at the medical centre. He stated

that Dr. Jain is “a hard working, knowledgeable, warm, caring and considerate individual who has handled his administrative responsibilities diligently.”

*Letter dated October 9, 2008 from Mr. P:* Mr. P is the President of a financial corporation. He has known Dr. Jain since 1998. He stated that Dr. Jain was “a caring, honest and a man of integrity with a genuine heart to help the community in general”. He went on to say that Dr. Jain was “a great asset to the community.”

*Letter dated October 8, 2008 from Ms. Q:* Ms. Q is Manager, Residential Mortgages, for a chartered bank. She has known Dr. Jain since 1998. She stated that Dr. Jain was “honest, dedicated, and very customer service oriented, always looking after the best interests of his clients”. She went on to state that she “would recommend him [Dr. Jain] to anyone as a first class professional.”

#### The Testimony of Dr. Jain

Dr. Jain stated that it was his intention, if his certificate of registration was reinstated, to work as a full-time Surgical Assistant. He also stated that he had contacted Dr. R at the Shouldice Hospital who has agreed to supervise him.

#### ***Submissions and Argument for the Requirement of a Training Period***

Counsel for Dr. Jain noted that Dr. Jain had previously completed a surgical residency training program and had, prior to his revocation of registration, practiced General, Vascular and Thoracic Surgery. He submitted, in view of Dr. Jain’s previous surgical experience, that Dr. Jain should only be required to complete an evaluation period of one month supervised by a “Surgical Assist Supervisor” to assess his surgical skills. It was his position that if the Surgical Supervisor, at any time, was of the opinion that Dr. Jain required further training, only then would Dr. Jain be required to participate in such a training program.

Counsel for the College noted that Dr. Jain completed his general surgical training program in 1982. She also noted that Dr. Jain’s Certificate of Registration was suspended



in 1996 and that Dr. Jain has had no “hands on” surgical experience in twelve years. College counsel reviewed the findings at the original hearing where Dr. Jain was found to be incompetent, demonstrated lack of judgment and had exposed patients to serious risks. In view of the findings at the original hearing, it was submitted by College counsel that “evaluation before training was backwards” and that allowing Dr. Jain to practise before an assessment was performed would not protect the public interest. She submitted that Dr. Jain should be required to successfully complete a supervised training program in a hospital setting until deemed to be competent prior to being allowed to practice as a Surgical Assistant.

## **FINDINGS AND DECISION**

The Discipline Committee accepted as true the evidence that was filed on consent, and accepted the opinions of Drs. A, B and C.

Having considered the facts giving rise to the revocation, the submissions made by counsel for Dr. Jain and counsel for the College, the relevant statutory provisions, and taking fully into account the factors considered relevant on an application for reinstatement and available case law, the Discipline Committee is satisfied that:

- (1) There have been significant positive changes in Dr. Jain’s circumstances since the time of revocation, including significant improvements in Dr. Jain’s financial, emotional and family status.
- (2) Dr. Jain has been truthful and has accepted responsibility for his actions by pleading guilty, at the original hearing, to all allegations (with the exception of one that was withdrawn by the College).
- (3) Dr. Jain has demonstrated remorse for the actions that led to the revocation of his certificate of registration and has apologized.
- (4) Based upon expert opinions, Dr. Jain does not suffer from any psychiatric disorder and has been rehabilitated.

- (5) Through Dr. Jain's educational and professional activities, as well as his community work since his revocation, he has demonstrated that he is of good character.

The Committee noted that, with one exception, the proposed terms, conditions and limitations were largely agreed upon by both the College and Dr. Jain.

The Committee was satisfied that Dr. Jain had met the burden of proof on an application for reinstatement. The Committee was further satisfied that the imposition of terms, conditions and limitations on his certificate of registration were in the public interest and provided a careful and safe framework for Dr. Jain's re-entry to practice in a supervised manner. The Committee accepted the submission of the College that Dr. Jain should be required to successfully complete a supervised training program until he is deemed to be competent, prior to being allowed to practice as a Surgical Assistant.

## **ORDER**

Therefore, on October 16, 2008, the Discipline Committee ordered and directed as follows:

1. THE DISCIPLINE COMMITTEE ORDERS the reinstatement of Dr. Jain's certificate of registration and directs the Registrar to impose the following terms, conditions and limitations on Dr. Jain's certificate of registration:
  - (i) Dr. Jain will complete a training program acceptable to the College in the field of surgical assisting with a surgeon certified by the Royal College of Surgeons working in a hospital setting and acceptable to the College (the "Surgical Assist Supervisor").
  - (ii) The Surgical Assist Supervisor will execute an Undertaking to the College and will provide monthly reports to the College regarding Dr. Jain's progress in the training program.

- (iii) Dr. Jain will participate in the training program until deemed competent in the field of surgical assisting by the Surgical Assist Supervisor, but in any event for a period of no less than three months.
- (iv) While participating in the training program, Dr. Jain will not be the most responsible physician for any patients and will not provide any continuity of care to any patients including any pre- or post-operative care.
- (v) The costs of the training program will be borne by Dr. Jain.
- (vi) Following completion of the training program, Dr. Jain may practice medicine as a surgical assistant only and on the following terms:
  - (a) Dr. Jain may practice as a surgical assist in a hospital based setting and when a College approved certified surgeon who is a member of the College of Physicians and Surgeons of Ontario is performing the surgery and in attendance;
  - (b) Dr. Jain will not be the most responsible physician for any patients and shall not provide any continuity of care to any patients including any pre- or post-operative care.
- (vii) Dr. Jain will cooperate with unannounced inspections of his practice by College representatives for the purpose of monitoring and enforcing compliance with the terms of this Order;
- (viii) Dr. Jain is prohibited from prescribing all medications, including, without limitation, those set out in the Summary of Narcotics, Narcotic Preparations, Controlled Drugs and Benzodiazepines/Targeted Substances taken from the Compendium of Pharmaceuticals and Specialties (Health

Canada) and Schedules I through IV of the *Controlled Drugs and Substances Act*, S.C. 1996, c.19, attached as Schedule “A” to this Order.

2. THE DISCIPLINE COMMITTEE DIRECTS the results of this proceeding to be included on the register.