

## **NOTICE OF PUBLICATION BAN**

In the College of Physicians and Surgeons of Ontario and Dr. Yadvinder Singh Dhaliwal, this is notice that the Discipline Committee ordered that there shall be a ban on publication of the identity and any information that would disclose the identity of the patients whose names are disclosed 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*, S.O. 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.

**Indexed as: Dhaliwal, Y. (Re)**

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

**IN THE MATTER OF** a Hearing directed  
by the Inquiries, Complaints and Reports Committee of  
the College of Physicians and Surgeons of Ontario  
pursuant to Section 26(1) of the **Health Professions Procedural Code**  
being Schedule 2 of 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. YADVINDER SINGH DHALIWAL**

**PANEL MEMBERS:**

**DR. W. KING (Chair)**  
**D. GIAMPIETRI**  
**DR. M. DAVIE**  
**DR. E. ATTIA (Ph.D.)**  
**DR. B. LENT**

<b>Hearing Date:</b>	November 5, 2012
<b>Decision Date:</b>	November 5, 2012
<b>Release of Written Reasons:</b>	February 4, 2013

**PUBLICATION BAN**

## **DECISION AND REASONS FOR DECISION**

The Discipline Committee (the “Committee”) of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on November 5, 2012. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty and costs order with written reasons to follow.

### **THE ALLEGATIONS**

The Notice of Hearing alleged that Dr. Dhaliwal committed an act of professional misconduct:

1. under paragraph 1(1)33 of O. Reg. 856/93, in that he has 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.

### **RESPONSE TO THE ALLEGATIONS**

Dr. Dhaliwal admitted the allegation of professional misconduct in the Notice of Hearing, that he has 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.

### **FACTS AND EVIDENCE**

The following facts were set out in an Agreed Statement of Facts and Admission which was filed as an exhibit:

#### **FACTS**

1. Dr. Yadvinder Singh Dhaliwal (“Dr. Dhaliwal”) is a family physician practising in Mississauga, Ontario.

2. In 2003, Dr. Dhaliwal was subject to discipline proceedings at the College (the “2003 Hearing”) and was found to have engaged in disgraceful, dishonourable or unprofessional conduct. The proceedings related to loans that Dr. Dhaliwal solicited and received from seven of his patients. The finding of professional misconduct was made on the basis of an Agreed Statement of Facts and Admission (the “2003 Agreed Statement of Facts and Admission”). The Decision and Reasons for Decision of the Discipline Committee, dated January 15, 2004 (the “2004 Decision”), are attached to the Agreed Statement of Facts and Admission as Schedule 1. The 2004 Decision incorporates the 2003 Agreed Statement of Facts and Admission in the section of the 2004 Decision titled “Facts.”

3. The 2003 Agreed Statement of Facts and Admission stated that Dr. Dhaliwal still owed money to some of the patients in issue, but that he had paid back a couple called Patient F and Patient G. Dr. Dhaliwal had borrowed over \$50,000 from Patients F and G in 1999, and two cheques provided in repayment had been returned for insufficient funds. However, the 2003 Agreed Statement of Facts and Admission stated that “at this time, the full amount of the loan, plus interest, has been repaid” to Patients F and G.

4. The 2004 Decision encouraged Dr. Dhaliwal to pay restitution to other patients whom he had not yet paid back, by providing that the suspension ordered by the Discipline Committee would be partially suspended if he did so. The 2004 Decision did not encourage Dr. Dhaliwal to pay back Patients F and G, because it was agreed that Dr. Dhaliwal had already done so.

5. The penalty was contested at the 2003 Hearing, which was held in October 2003, and Dr. Dhaliwal testified in his own defence. Dr. Dhaliwal testified under oath that he had paid back Patients F and G in full. However, this was not true.

6. In May 2003, i.e. five months before the 2003 Hearing, Dr. Dhaliwal, his wife, and a relative went on their own initiative to the home of Patients F and G to discuss the complaint Patients F and G had made to the College about their having loaned money to Dr. Dhaliwal. The patients were asked to withdraw their complaint, on the stated basis that Dr. Dhaliwal’s ability to repay the loan could be jeopardized by the discipline

proceedings against him. Patients F and G agreed to withdraw their complaint in return for an offer of \$1000 a month to be received until the loan was repaid in full.

7. Patients F and G signed a letter, as requested by the Dhaliwals, which stated that they had been repaid the money, and that “we now withdraw our complaint against Dr. Yadvinder S Dhaliwal and do not want to continue with any kind of investigation.” The letter was sent to the College. This letter, dated May 14, 2003, is attached to the Agreed Statement of Facts and Admission as Schedule 2.

8. As a result of the foregoing, the evidence before the panel at the 2003 Hearing held in October of that year was that Patients F and G had been repaid.

9. Dr. Dhaliwal paid Patients F and G \$1000 a month as he had agreed to do for a period of five or six months. Thereafter, the payments began to drop in frequency and amount. In 2008, Dr. Dhaliwal paid nothing towards repayment of the loan.

10. In April 2009, Patient F advised a College investigator that the letter sent to the College in 2003 stating he and his wife had been repaid was untrue. He explained that since that time, they had received about \$10,000 in small instalments. Patient F further explained that, for example, he had attended the previous month at Dr. Dhaliwal’s practice and received an envelope with \$250.00 in it from the reception desk.

11. After Patient F advised a College investigator of this information in April 2009, Dr. Dhaliwal’s wife contacted Patient F to advise him that a \$30,000 payment was available to him and his wife in return for signing papers again withdrawing their complaint with the College. Patient F attended at Dr. Dhaliwal’s office and picked up a bank draft for \$30,000. Patient F maintained that this was not a payment in full, as legal fees and interest remained outstanding. However, Dr. Dhaliwal maintained in subsequent correspondence to the College that the loan had now been paid in full.

**ADMISSION**

12. Dr. Dhaliwal admits the facts set out above, and admits that the conduct described was disgraceful, dishonourable or unprofessional, thereby constituting professional misconduct.

**FINDING**

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts and Admission. Having regard to these facts, the Committee accepted Dr. Dhaliwal's admission and found that he committed an act of professional misconduct, in that he has 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.

**PENALTY AND REASONS FOR PENALTY**

Counsel for the College and counsel for the member made a joint submission as to an appropriate penalty and costs order.

The Committee carefully considered the joint submission to ensure that it met the general principles of penalty. A penalty should serve to denounce the disgraceful, dishonourable or unprofessional behaviour and uphold the reputation of the profession. A penalty should serve to protect the public and maintain the public's confidence in the profession's ability to self-regulate. As well, the penalty should deter the member from a recurrence of the conduct and provide general deterrence to the profession. To whatever extent possible, a penalty should also serve to rehabilitate the member. The law is clear that the Committee should accept a jointly proposed penalty unless to do so would be contrary to the public interest and bring the administration of justice into disrepute.

Dr. Dhaliwal has been penalized previously for the unprofessional conduct that was the subject of the 2003 Hearing. The Committee is nonetheless astonished at Dr. Dhaliwal's behaviour. To have testified at his hearing that he had repaid his patients, F and G, when in fact he had not, is behaviour that cannot be tolerated. Such a blatant display of

dishonesty and lack of integrity reflects poorly on Dr. Dhaliwal personally and on the profession as a whole and must be denounced. A physician's dishonesty with his governing body is an egregious offence and brings into question the member's governability. A reprimand and three month suspension of Dr. Dhaliwal's certificate of registration should serve to denounce this misconduct, uphold the profession's reputation and, hopefully, specifically deter Dr. Dhaliwal from further misconduct of this nature. The Panel was presented with three previous decisions of this Committee and notes that the proposed penalty is within the range of these previous cases, (*Joshi* 2004; *Auchinachie* 2008; *Rassouli-Rashti*, 2009). The practice of medicine in Ontario is a privilege. Physicians are held to high ethical and moral standards. To learn that Dr. Dhaliwal, despite having taken the College's ethics course, fell so woefully short of the standard is very concerning. Dr. Dhaliwal did not make restitution to patients F and G until the investigation into this present proceeding was underway in 2009. This self-serving conduct casts doubt on any declaration of remorse or regret on Dr. Dhaliwal's part.

Dr. Dhaliwal's misconduct is somewhat mitigated by his admission to the present allegations and his cooperation with the College, which spared patients F and G from having to testify. However, had Dr. Dhaliwal acted with the appropriate honesty and integrity at the 2003 Hearing, this hearing would not have been necessary

The Committee is of the view that this is an appropriate case to award costs to the College at the tariff rate of \$3,650.00 for a one day hearing, and that these costs should be borne by Dr. Dhaliwal.

## **ORDER**

Therefore, having stated the findings in paragraph 1 of its written order of November 5, 2012, on the matter of penalty and costs, the Committee ordered and directed that:

2. the Registrar suspend Dr. Dhaliwal's certificate of registration for a three month period, to commence at 12:01 a.m. on December 5, 2012.

3. Dr. Dhaliwal appear before the panel to be reprimanded.
4. Dr. Dhaliwal shall within thirty (30) days pay the College its costs of this proceeding in the amount of \$3,650.00.

At the conclusion of the hearing, Dr. Dhaliwal waived his right to an appeal under subsection 70(1) of the Code and the Committee administered the public reprimand.