

Indexed as: Rahman (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(1) of the **Health Professions Procedural Code (“the 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. MOHAMMED ATAUR RAHMAN

PANEL MEMBERS:

DR. L. THURLING (CHAIR)
S. DAVIS
DR. P. CHART
B. TAA (Ph.D.)
DR. R. EDNEY

Hearing Date:	August 23, 2007
Decision Date:	August 23, 2007
Release of Written Decision Date:	October 13, 2007

DECISION AND REASONS FOR DECISION

The Discipline Committee of the College of Physicians and Surgeons of Ontario (the “Committee”) heard this matter at Toronto on August 23, 2007. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its order as to penalty and costs with written reasons to follow.

THE ALLEGATIONS

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

1. under paragraph 1(1)2 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”), in that he has failed to maintain the standard of practice of the profession; and
2. under paragraph 1(1)33 of 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. Rahman admitted to Allegation 2 as set out in the Notice of Hearing that he 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 under paragraph 1(1)33 of O. Reg. 856/93. Counsel for the College withdrew Allegation 1.

SUMMARY

The substance of the allegation relates to events occurring between December 2003 and April 2004 when Dr. Rahman issued prescriptions for custom orthotics without seeing and assessing patient needs for orthotics.

FACTS AND EVIDENCE

The matter proceeded by means of a jointly submitted Agreed Statement of Facts and Admission which was filed as an exhibit and presented to the Committee:

PART I – FACTS

1. Dr. Mohammed Aatur Rahman (“Dr. Rahman”) is a family doctor practising in Toronto. At all material times he was a member of the College of Physicians and Surgeons of Ontario (the “College”).
2. In October 2003, Dr. Rahman opened a clinic in Markham, Ontario. Dr. Rahman was practising medicine in several different locations simultaneously in the United States and rural Ontario when he opened the Markham clinic. Accordingly, he began the process of relocating his practice to Markham, and the transition was completed in June 2004. Dr. Rahman now practises solely at the Markham clinic.
3. During this transitional period Dr. Rahman became acquainted with a certified pedorthist. Between December 2003 and April 2004, the pedorthist conducted a number of orthotics assessments and wrote prescriptions for orthotics. Approximately 25 of these prescriptions were signed by Dr. Rahman, who did not assess the patients beforehand.
4. Since that time, Dr. Rahman has studied the College’s policies on prescribing practices including Prescribing Practices, Policy #2-05. He is now aware that he should not have signed these prescriptions without first seeing the patients and assessing their need for orthotics.

PART II – ADMISSION

5. Dr. Rahman admits the facts in paragraphs 1 to 4 above and admits that signing prescriptions without first assessing the patients constitutes professional misconduct under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, in that he engaged in conduct relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

FINDING

The Committee accepted as true all of the facts as set out in the Agreed Statement of Facts and Admission. Having regard to these facts, the Committee accepted Dr. Rahman's admission and found that he committed an act of professional misconduct under paragraph 1(1)33 of O. Reg. 856/93, in that he 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.

In making this finding the Committee had particular regard for the following:

- Dr. Rahman signed prescriptions for orthotics without having seen or assessed whether the patients had a need for such devices. While no evidence of harm was placed before the Committee, there was no proper medical diagnosis/assessment performed and the potential for harm exists.
- Dr. Rahman knew or should have known that the College has a clear policy on prescribing practices. The onus is upon the member to be familiar with the College policies which apply to his or her practice situation.
- Dr. Rahman's conduct was not in keeping with College's Prescribing Practices policy which necessitates in addition to a medical diagnosis/assessment, an

understanding of the patient's health status, generation of a proper medical record or chart and, with few exceptions, a physician/patient relationship.

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 as follows:

1. The Registrar suspend Dr. Rahman's certificate of registration for a period of one (1) month, to commence on June 1, 2008, which suspension shall be suspended in its entirety if prior to June 1, 2008, Dr. Rahman successfully completes, at his own expense, the College-approved course in Medical Ethics and Informed Consent, and provides proof thereof to the College.
2. Dr. Rahman appear before the panel to be reprimanded.
3. Dr. Rahman pay to the College costs in the amount of \$2,500.00 within 60 days of the date of this Order.
4. The results of this proceeding be included in the register.

The Committee heard submissions from both counsel and agreed that the proposed joint submission represented the appropriate penalty in this case. The penalty proposed and accepted by the Committee reflects the appropriate denunciation of the conduct and upholds the status of the profession and protection of the public. In this matter as well the Committee believes that specific and general deterrence are important. Policy #2-05 sets out in detail the policy with respect to prescribing practices. Effective governance requires members adhere to College policies.

The Committee did have regard for the following mitigating circumstances:

- Dr. Rahman has no prior discipline history with the College.

- There was no evidence of Dr. Rahman receiving financial gain.
- Dr. Rahman has cooperated with the College and made an early admission.
- Through his counsel, Dr. Rahman expressed deep regret of not informing himself of College policies.

The Committee had regard for the case law of this College as submitted in the College's Brief of Authorities. The Committee believes that the penalty proposed in the present matter is consistent with the principles in other similar or analogous Committee decisions.

The Committee received advice from Independent Legal Counsel ("ILC") regarding the weight to be given to a joint submission. The courts and this College have indicated that the Committee should accept the proposed penalty unless to do so would bring the administration of justice into disrepute and the Committee accepts this principle.

In summary, the Committee accepts the proposed penalty which it finds fair and reasonable given the finding of professional misconduct and the circumstances of this case.

ORDER

Therefore, the Discipline Committee ordered and directed that:

1. The Registrar suspend Dr. Rahman's certificate of registration for a period of one (1) month, to commence on June 1, 2008, which suspension shall be suspended in its entirety if prior to June 1, 2008, Dr. Rahman successfully completes, at his own expense, the College-approved course in Medical Ethics and Informed Consent, and provides proof thereof to the College.
2. Dr. Rahman appear before the panel to be reprimanded.

3. Dr. Rahman pay to the College costs in the amount of \$2,500.00 within 60 days of the date of this Order.
4. The results of this proceeding be included in the register.

Dr. Rahman waived his right to an appeal under subsection 70(1) of the Code and the Committee administered the public reprimand.