

**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**
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. WILLIAM CHARLES FARRINGTON

PANEL MEMBERS:

S. DAVIS (Chair)
DR. M. GORDON
D. EATON-KENT
DR. W. KING
DR. R. WEXLER

Hearing Date:	January 9, 2009
Decision Release Date:	January 9, 2009
Release of Written Reasons:	April 2, 2009

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 January 9, 2009. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty order in writing with written reasons to follow.

THE ALLEGATIONS

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

1. in that he has been found guilty of an offence that is relevant to his suitability to practise under clause 51(1)(a) of the Health Professions Procedural Code (the “Code”), which is Schedule 2 to the *Regulated Health Professions Act, 1991* ; and
2. 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 under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”).

RESPONSE TO THE ALLEGATIONS

Dr. Farrington denied the allegations in the Notice of Hearing.

FACTS AND EVIDENCE

An Agreed Statement of Facts was not filed in this proceeding. Counsel agreed that the transcript of the Guilty Plea Proceedings at the Ontario Court of Justice dated October 18,

2007 (Exhibit #3), which was read into evidence, would be adopted as agreed facts in this proceeding. The following agreed facts were read in from Exhibit #3 [at pp. 5-7]:

The Ontario Health Insurance Plan Schedule of Benefits is a Regulation pursuant to the *Health Insurance Act, 1990*, which governs the payments of physicians for insured medical services under the Ontario Health Insurance Plan known as OHIP. The Schedule of Benefits sets out certain requirements with respect to all billings to OHIP, and the specific requirements for billing particular services.

It is a breach of the OHIP Schedule of Benefits to submit a bill to OHIP for services in circumstances where the services provided do not meet the specific requirements for billing established by the Schedule of Benefits.

Section 44 of the *Health Insurance Act, 1990*, as amended, creates an offence where any part of the *Act* or the Regulations under the *Act* is breached. A copy of section 44 of the *Health Insurance Act* is attached to the Agreed Statement of Facts [filed in the course of the proceedings at the Ontario Court of Justice].

Between 1998 and 2005, William Farrington was licensed to practice medicine in the Province of Ontario. Between 1998 and 2005, Mr. Farrington saw patients in his private office practice and submitted accounts to the Ontario Health Insurance Plan in respect of services which he, and [Mr. X], a chiropractor employed at his clinic, delivered to patients in his private practice.

A001 is a billing code under the OHIP Schedule of Benefits for a minor assessment. A minor assessment is defined in the OHIP Schedule of Benefits as follows:

Minor Assessment is a visit which involves a direct physical encounter with the patient and includes either or both of the following:

- (i) a brief history and examination of the affected part or region or mental or emotional disorder;
- (ii) brief advice or information regarding health maintenance, diagnosis, treatment and/or prognosis.

Minor assessments were paid at a rate of \$16.25, being 1998 rates, to \$17.30, being 2002 rates, over the period of time in question.

Dr. Farrington exchanged correspondence with OHIP between 1997 and 2003 concerning his A001 billings.

It is acknowledged and agreed by Mr. Farrington that between 1998 and 2005, A001 billings were submitted to OHIP by William Farrington in circumstances where the requirements for billing a minor assessment (A001) were not satisfied, resulting in a contravention of section 44(1)(a) of the *Health Insurance Act*.

Also filed in evidence was a copy of the Information under Section 23 of the *Provincial Offences Act* in respect of Dr. Farrington, as well as OHIP Bulletin #4394 regarding Medical Review Committee Activity.

The charge against Dr. Farrington was that on or about April 1, 1998 to January 24, 2005, inclusive, at the City of Barrie, Dr. Farrington did submit billings to the Ontario Health Insurance Plan that did not comply with the requirements of the schedule of benefits and did thereby commit an offence under the *Health Insurance Act*, contrary to the *Health Insurance Act*, section 44(1)(a).

On October 18, 2007, in the proceedings before the Ontario Court of Justice, Dr. Farrington entered a guilty plea to the charge and the Honourable Mr. Justice R.F. McCreary found Dr. Farrington guilty of committing an offence under the *Health Insurance Act*, contrary to the *Health Insurance Act*, section 44(1)(a).

FINDINGS

The Committee accepted as true all of the facts read into evidence from Exhibit #3.

The Committee is of the opinion that the language of section 51(1)(a) of the Code is quite specific. In the phrase, "... has been found guilty of an offence that is relevant to the member's suitability to practise," the word "offence" is not modified by any adjective such as "criminal," "fraudulent" or "knowing." The finding of guilt in this matter under the *Health Insurance Act* by the Ontario Court of Justice satisfies, in the opinion of the Committee, the definition of an offence and is relevant to practise in that doctors are required to know and observe proper billing procedures.

Therefore, having considered the evidence and having regard to the agreed facts and the foregoing, the Discipline Committee found that Dr. Farrington has committed an act of professional misconduct under section 51(1)(a) of the Code, in that he has been found guilty of an offence that is relevant to his suitability to practise.

Counsel for the College informed the Committee that the College was seeking a finding of professional misconduct *either* on allegation (1) *or*, in the alternative, on allegation (2). Accordingly, having found that Dr. Farrington had committed an act of professional misconduct under allegation (1), the Committee did not make a finding with respect to allegation (2).

PENALTY AND REASONS FOR PENALTY

Counsel for Dr. Farrington filed as evidence in the penalty hearing a brief of "character reference letters" consisting of 19 letters from grateful patients on the occasion of Dr. Farrington's retirement, many handwritten, and all highly laudatory. He informed the Committee that Dr. Farrington is 73 years old, and has recently retired from a practice of 47 years duration in which there were no prior findings before the court or the College.

The Committee is of the view that in the circumstances of this case, for a finding of this type (involving a breach of the regulations under the *Health Insurance Act*), against a

senior physician in the twilight of a distinguished career, that a public reprimand was unnecessary. The goal of general deterrence is served by the fact that the finding of professional misconduct will be a matter of public record.

However, the Committee also determined that a costs award in the amount sought is appropriate. The award of costs sought and jointly agreed to is \$3,650, which is in accordance with the tariff for a one-day hearing.

ORDER

Therefore, on January 9, 2009, the Committee ordered and directed that:

1. Dr. Farrington to pay to the College costs in the amount of \$3,650 within 60 days of the date of this Order.
2. The results of this proceeding, which includes the finding of professional misconduct and order to be included in the register.