

## NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Baranick this is notice that the Discipline Committee ordered that no person shall publish or broadcast the names or any information that could disclose the identity of the patients referred to orally or in the exhibits filed 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... 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: Ontario (College of Physicians and Surgeons of Ontario) v. Baranick,  
2017 ONCPSD 35**

**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. PETER PAUL BARANICK**

**PANEL MEMBERS:**  
**DR. P. CHART (Chair)**  
**MR. S. BERI**  
**DR. J. WATTERS**  
**MR. J. LANGS**  
**DR. W. MCCREADY**

**COUNSEL FOR THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO:**

**MS CAROLYN SILVER**

**COUNSEL FOR DR. BARANICK:**

**MR. JEFFREY MUTTER**

**INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:**

**MR. DAVID ROSENBAUM**

**Hearing Date:** June 12, 2017  
**Decision Date:** June 12, 2017  
**Release of Written Reasons:** August 1, 2017

**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 June 12, 2017. At the conclusion of the hearing, the Committee released a written order stating its finding that the member committed an act of professional misconduct in that he failed to maintain the standard of practice of the profession, and setting out its penalty and costs order with written reasons to follow.

## **THE ALLEGATIONS**

The Notice of Hearing alleged that Dr. Peter Paul Baranick committed an act of professional misconduct:

1. under paragraph 1(1)2 of O Reg. 856/93 in that he has failed to maintain the standard of practice of the profession.

The Notice of Hearing also alleged that Dr. Baranick is incompetent as defined by subsection 52(1) of the Health Professions Procedural Code (the Code), which is Schedule 2 to the *Regulated Health Professions Act, 1991*.

## **RESPONSE TO THE ALLEGATIONS**

Dr. Baranick admitted to the allegation that he has failed to maintain the standard of practice of the profession. The College withdrew the allegation of incompetence.

## **THE FACTS**

The following facts were set out in the Agreed Statement of Facts which was filed as an exhibit and presented to the Committee:

## FACTS

1. Dr. Baranick is a 72 year old family physician practising at Appletree Medical walk-in Clinics in Ottawa. He obtained his medical degree from the University of Ottawa in 1973. He held an independent practice certificate with this College from 1979-1982 and from 1989 to present.
2. On February 15, 2010, Dr. Baranick signed an Undertaking to practice under Clinical Supervision, to successfully complete Medical Record-Keeping and Ethics courses, and to undergo a re-inspection of his practice. A copy of the Undertaking dated February 15, 2010 is attached at Tab 1 [to the Agreed Statement of Facts].
3. Pursuant to the 2010 Undertaking, the College retained Dr. Ahuja to conduct the re-assessment of Dr. Baranick's practice. Dr. Ahuja reviewed 19 patient charts and discussed them with Dr. Baranick during an interview conducted on October 10, 2012. In his report, Dr. Ahuja opined, in part, as follows:

*"Dr. Baranick is an experienced clinician who has worked in primary patient care for most of his career. He has recently made the transition from working in the Emergency Department of a hospital to seeing unscheduled patients in a number of ambulatory clinics. By his own admission, he sees too many patients during his shifts, and this may be one factor that has resulted in poor notations on the charts of his patients. Nevertheless, it is my understanding that he took one of the College's courses on record-keeping recently and should be familiar with the College's guidelines. During our interview, I was surprised that he did not seem familiar with "SOAP" format advocated by the College, and that he rarely uses that format to help him structure his patient assessments. Based upon my review of these patient records and my interview with the physician, it is my opinion that the care provided to his patients by Dr. Baranick fails to meet the standard of practice of a competent practitioner in his field of practice.*

*Beyond charting issues, it is my opinion that Dr. Baranick's care displays a lack of medical knowledge of clinical conditions commonly seen in the walk-in setting. These are fairly wide-ranging and include upper respiratory tract infections, eye and ear problems, genito-urinary conditions and asthma. This hampers his abilities to appropriately assess patients and to effectively manage their problems. In some instances his care displays a lack of skill, exemplified by his assessment of ocular problems. It is my opinion that Dr. Baranick's management of a patient requesting repeats of a prescription drug displays a lack of judgment, with the potential to expose such patients to harm."*

4. Dr. Ahuja's recommendations included the following:

*"I recommend that he should make efforts to limit the number of patients seen during his shifts.*

*During this reassessment process, several areas of clinical weakness have been revealed and Dr. Baranick should make efforts to identify others and take steps to increase his medical knowledge.*

*...I recommend a period of supervision by a clinician whose practice is more closely aligned with that of Dr. Baranick, with a practice reassessment subsequently."*

A copy of Dr. Ahuja's report dated November 8, 2012 is attached at Tab 2 [to the Agreed Statement of Facts].

5. On April 17, 2013 the Inquiries, Complaints and Reports Committee considered Dr. Ahuja's report and directed another Undertaking for Dr. Baranick to restrict his practice to no more than 6 patients per hour, to complete the Comprehensive Family Practice Review (CFPR) course, to practice under supervision of a Clinical Supervisor, and to undergo a comprehensive practice reassessment. A copy of Dr. Baranick's Undertaking dated July 10, 2013 is attached at Tab 3 [to the Agreed Statement of Facts].

6. Dr. Linda Klapwyk conducted the comprehensive practice assessment, which included a review of 25 patient charts and direct observation of 8 patients' medical appointments and review of their corresponding patient charts. Dr. Klapwyk opined, in part, as follows:

*“Although Dr. Baranick is an experienced physician who has undergone reassessment and remediation of his practice in previous years it is my opinion that he still fails to meet the standard of the profession with regards to record keeping due to legibility concerns and in not providing enough detail about some presenting complaints. He does not meet the standard with regards to assessing and managing community acquired infections, infant care, and chronic illness such as arthritis, diabetes, and hypercholesterolemia. Additionally, he demonstrates a number of areas of lack of knowledge, skill, and judgment as detailed above which have potential to cause harm.”*

A copy of Dr. Klapwyk's report dated March 30, 2016 is attached at Tab 4 [to the Agreed Statement of Facts].

## **ADMISSION**

7. Based on the foregoing, Dr. Baranick admits that he failed to maintain the standard of practice.

## **FINDING**

The Committee accepted as correct all of the facts set out in the Agreed Statement of Facts. Having regard to these facts, the Committee accepted Dr. Baranick's admission and found that he committed an act of professional misconduct in that he has failed to maintain the standard of practice of the profession.

## **SUBMISSIONS ON PENALTY**

Counsel for the College and counsel for Dr. Baranick made a joint submission as to an appropriate penalty and costs order. The proposed order included a two-month suspension, a reprimand, and the imposition of terms, conditions and limitations on Dr. Baranick's certificate of registration, including requirements that Dr. Baranick complete a comprehensive Continuing Medical Education (CME) program acceptable to the College within six months after the end of his suspension; that Dr. Baranick undergo clinical supervision followed by a reassessment of his practice by an assessor; and that Dr. Baranick abide by various terms to ensure his clinical supervision is effective. Further, the proposed order provided that Dr. Baranick pay to the College costs in the amount of \$5,500.00.

## **EVIDENCE ON PENALTY**

The Committee was advised that when this matter was referred to the Discipline Committee, Dr. Baranick agreed to undergo clinical supervision. During the penalty stage of the hearing, Dr. Baranick's counsel submitted two reports from Dr. Baranick's supervisor, Dr. Abdulla, which were filed as exhibits. The first report covered the period from November 1, 2016 to April 30, 2017, and the second report covered the period from June 1 to June 12, 2017. In these reports, Dr. Abdulla reported on his review of a total of seventy-seven (77) patients who had been seen by Dr. Baranick. Dr. Abdulla's reviews consisted either of direct observation or chart reviews. Dr. Abdulla assessed Dr. Baranick's care as good or excellent in most cases. There were some areas where Dr. Abdulla thought improvement was needed, although he noted in the more recent report that Dr. Baranick had made overall great improvements in several areas.

## **LEGAL PRINCIPLES**

The principles guiding the imposition of penalty in the College's disciplinary proceedings have been well established. Protection of the public is the most important. Other principles include maintaining public confidence in the integrity of the profession and the ability of the College to govern the profession effectively in the public interest, specific deterrence of the individual

member and general deterrence of the members of the profession, and, where appropriate, the opportunity for the member's rehabilitation.

## **PENALTY AND REASONS FOR PENALTY**

In determining the appropriate penalty in this case, the Committee carefully considered the nature of the misconduct committed by the member.

### **Record Keeping**

Dr. Baranick failed to maintain the standard of practice of the profession in record keeping, as noted in Dr. Ahuja's report of November 8, 2012 of the reassessment that he conducted of Dr. Baranick's practice. This reassessment was required pursuant to an undertaking signed by Dr. Baranick on February 15, 2010. As part of the 2010 undertaking, Dr. Baranick was required to participate in and successfully complete a Medical Record Keeping and Ethics courses approved by the College. Even with the benefit of this specific education, in 2012 Dr. Baranick was not familiar with, and was not using the "SOAP" format, and was making poor notations on patient charts.

A further undertaking signed by Dr. Baranick on July 10, 2013 set out practice terms, including clinical supervision and professional education, and required him to undergo a comprehensive practice reassessment. The comprehensive practice reassessment was carried out in 2016 by Dr. Linda Klapwyk. Based on her review of twenty-five (25) of Dr. Baranick's patient charts and observation of eight (8) patients and review of their corresponding charts, Dr. Klapwyk opined that Dr. Baranick still failed to maintain the standard of practice of the profession in his record keeping. She specifically cited legibility concerns, and that Dr. Baranick did not provide sufficient detail in respect of presenting complaints.

Given that repeated assessments of Dr. Baranick's practice revealed persistent shortcomings in his record keeping, despite his having undertaken specific education in that area, it is clear to the Committee that Dr. Baranick still needs to exert more diligence to ensure that the knowledge he has acquired is effectively used in his record keeping practices. Other Panels of this Committee



have emphasized the importance of maintaining the standard of practice of the profession in record keeping. This cannot be overstated. Making a complete and legible account of patient interactions is critical to ensuring that other caregivers will understand the assessment and the treatment plan. This is particularly important in the walk-in setting, where other physicians may see the patient subsequently. Patients and the public have the right to expect that their physicians will keep complete and legible records, and it is Dr. Baranick's professional responsibility to do so.

### **Clinical Care**

Based on the 2012 report of Dr. Ahuja, Dr. Baranick's clinical care of patients was deficient in his management of a number of common conditions seen in the walk-in setting. Dr. Ahuja identified deficits in both Dr. Baranick's knowledge and skill. In the 2016 report, following comprehensive practice reassessment, Dr. Klapwyk noted deficits in Dr. Baranick's management of community-acquired infections, infant care, and a number of chronic illnesses. That Dr. Baranick appears to have made little headway in addressing these criticisms of his practice is particularly troubling to the Committee.

Having current knowledge and skill is a fundamental commitment that physicians make to their patients, regardless of the setting in which they practise. Dr. Baranick has had the opportunity to attend to his deficiencies since 2010. It was only shortly before this hearing that Dr. Baranick appears to have taken positive steps, as seen in the reports of Dr. Abdulla. Maintaining the standard of practice of the profession in clinical care is critical to the provision of quality care. Dr. Baranick's deficiencies are disturbing to the Committee and it views them as serious.

The behaviour described above, both in respect of his record keeping and clinical care, must result in serious sanction of Dr. Baranick in the form of a suspension. This will emphasize to Dr. Baranick that the profession will not tolerate a lack of attention to significant deficits that result in a failure to maintain the standard of practice of the profession. Dr. Baranick needs to make improvements in his practice and these improvements must be sustained. The fact that Dr. Baranick sees patients in a walk-in setting and sees a large volume of patients is no excuse for his provision of substandard care. He must tailor the number of patients that he sees, so that he

allows adequate time for proper assessment and documentation. The Committee was satisfied with the parties' joint submission that the penalty order include a restriction on the number of patients that Dr. Baranick sees hourly. The Committee views this as an added safeguard.

The Committee took relevant aggravating and mitigating factors into account. Mitigating factors include Dr. Baranick's acknowledgement of his professional misconduct, which saved the College the time and expense of a contested hearing. Additionally, he demonstrated insight into his misconduct, as evidenced by his having engaged a new supervisor who has reported improvements in Dr. Baranick's practice.

A significant aggravating factor is the lack of improvement in Dr. Baranick's record keeping and clinical care, following his 2010 undertaking and the reassessment of Dr. Baranick's practice by Dr. Ahuja in 2012, despite the fact that he was aware of concerns about his practice and had signed an undertaking which included specific remedial measures to address those concerns.

### **Case Law**

The penalty that is imposed should be consistent with penalties previously imposed in similar cases. The Committee was presented with the following cases: *CPSO v. Syan* (2015), *CPSO v. Martin* (2014), and *CPSO v. Wojcicki* (2016). All three cases involved failure to maintain the standard of practice of the profession, and each one resulted in a penalty that included a two-month suspension, a reprimand, and a remedial program, including clinical supervision upon return to practice. A practice reassessment following remediation was required in two of these cases. The Committee found the decision in *CPSO v. Syan* (2015) to be the most pertinent in considering the appropriate penalty for Dr. Baranick, as the facts of that case fit most closely to the facts of Dr. Baranick's case.

The Committee is aware that the threshold for rejecting the parties' joint submission on penalty is high. In *R. v. Anthony-Cook*, 2016 SCC 43, the Supreme Court of Canada made it clear that a joint submission on penalty should be accepted, unless to do so would bring the administration of justice into disrepute, or would otherwise be contrary to the public interest.

**Conclusion**

The Committee found that the proposed penalty and costs order is proportionate to the misconduct, is consistent with the applicable penalty principles, and is in keeping with previous penalties imposed by the Discipline Committee in similar cases.

In particular, a reprimand and a two-month suspension will serve both as a specific deterrent to Dr. Baranick and a general deterrent to the profession. The requirement that Dr. Baranick complete a comprehensive Continuing Education Program and six months of clinical supervision at a moderate level, followed by a reassessment of his practice, will ensure that Dr. Baranick has the opportunity to address remaining deficits and demonstrate that he is able to maintain the standard of practice of the profession. These measures provide protection for the public.

Limiting his practice to seeing six patients per hour and monitoring of his OHIP billings will ensure that Dr. Baranick has the time to provide quality care to the patients he sees and to make an appropriate medical record of those encounters.

The Committee considered this to be an appropriate case in which to order that Dr. Baranick pay costs to the College at the College's Tariff rate for a one-day hearing.

**ORDER**

The Committee stated its finding in paragraph 1 of its written order of June 12, 2017. In that order, the Committee ordered and directed on the matter of penalty and costs that:

2. Dr. Baranick attend before the panel to be reprimanded.
3. The Registrar suspend Dr. Baranick's certificate of registration for a period of two (2) months effective immediately.
4. The Registrar impose the following terms, conditions and limitations on Dr. Baranick's certificate of registration:
  - (a) Dr. Baranick shall, within six (6) months of the end of the period of the suspension, complete a comprehensive Continuing Medical Education (CME)

program acceptable to the College focusing on the areas of concern raised in the report of the College assessor dated March 30, 2016;

- (b) Dr. Baranick shall limit his practice to no more than six (6) patients per hour;

***Clinical Supervision***

- (c) Within sixty (60) days of the date of this Order, Dr. Baranick shall obtain a clinical supervisor acceptable to the College, who will supervise Dr. Baranick for a period of six (6) months, and who will sign an undertaking in the form attached [to the Order] as Schedule “A” (the “Clinical Supervisor”);
- (d) The Clinical Supervision shall be at a moderate level for six (6) months, commencing on the date following the expiry of the suspension of Dr. Baranick’s certificate of registration. The Clinical Supervisor will meet with Dr. Baranick bi-weekly and review a minimum of ten (10) of Dr. Baranick’s patient charts, discuss Dr. Baranick’s patient care, treatment plan and follow-up, identify any concerns regarding the care, treatment plan and follow-up and make recommendations for improvement;
- (e) Within three (3) months after the completion of the Clinical Supervision, Dr. Baranick will submit to a reassessment of his practice (the “Reassessment”) by an assessor or assessors selected by the College (the “Assessor(s)”). The Reassessment may include a chart review, direct observation of Dr. Baranick’s care, interviews with colleagues and co-workers, feedback from patients and any other tools deemed necessary by the College. Dr. Baranick shall abide by all recommendations made by the Assessor(s), and the results of the Reassessment will be reported to the College and may form the basis of further action by the College;
- (f) Dr. Baranick shall cooperate fully with the Clinical Supervision and abide by all recommendations of his Clinical Supervisor(s) with respect to practice improvements and education;
- (g) Dr. Baranick shall consent to the disclosure by the Clinical Supervisor to the College, and by the College to his Clinical Supervisor, of all information the Clinical Supervisor or the College deems necessary or desirable in order to fulfill

the Clinical Supervisor's undertaking and to monitor Dr. Baranick's compliance with this Order. This shall include, without limitation, providing the Clinical Supervisor with any reports of any assessments of Dr. Baranick's practice in the College's possession;

- (h) If a Clinical Supervisor who has given an undertaking in Schedule "A" to this Order is unable or unwilling to continue to fulfill its terms, Dr. Baranick shall, within twenty (20) days of receiving notice of same, obtain an executed undertaking in the same form from a similarly qualified person who is acceptable to the College and ensure that it is delivered to the College within that time;
- (i) If Dr. Baranick is unable to obtain a Clinical Supervisor in accordance with paragraphs 4(b) or 4(g) of this Order, he shall cease practising medicine until such time as he has done so, and the fact that he has will constitute a term, condition or limitation on his certificate of registration until that time;
- (j) Dr. Baranick shall co-operate with unannounced inspections and shall consent to the monitoring of his OHIP billings of his Practice by a College representative(s), for the purpose of monitoring and enforcing his compliance with the terms of this Order;
- (k) Dr. Baranick shall inform the College of each and every location that he practises or has privileges, including, but not limited to, hospital(s), clinic(s) and office(s), in any jurisdiction 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; and
- (l) Dr. Baranick shall be responsible for any and all costs associated with implementing the terms of this Order.

5. Dr. Baranick pay to the College costs in the amount of \$5,500.00, within thirty (30) days of the date of this order.

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

**TEXT of PUBLIC REPRIMAND**  
**Delivered June 12, 2017**  
**in the case of the**  
**COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO**  
**and**  
**DR. PETER PAUL BARANICK**

This Panel is significantly troubled by your failing to maintain the standard of practice of the profession. Current knowledge and skill is a fundamental commitment made by physicians to their patients. As clearly set out in the Assessors Report, you are no stranger to criticism of your patterns of practice. In fact, from 2010 you've had the opportunity to attend to your deficiencies and have not done so until shortly before this hearing.

The current Order addresses the issues that require your attention, including making a complete and legible account of patient interactions which is critical. This ensures that other care givers will understand the care that you have given. Shortcomings also exist in your clinical care, even though recent supervisor reports are certainly encouraging.

Maintenance of the Standard of Practice of the profession is critical to the provision of quality care to the patients of this province. This Panel expects you to assiduously address all your deficiencies, and demonstrate that improvements in your practice are sustained. We hope never to see you before us again.

*This is not an official transcript*