

Indexed as: Cauchi (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 Sections 36(1)
of the Health Professions Procedural Code
of the Regulated Health Professions Act 1991,
S.O. 1991, c. 18, as amended.

BETWEEN:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. MARIO MARK CAUCHI

PANEL MEMBERS:

J. FREDERICK (CHAIRMAN)
H. MAEOTS
DR. J. WATTS
DR. A. KENSHOLE
DR. Y. DEBUDA

HEARING DATE: October 8, 1999

DECISION/RELEASED: October 8, 1999

DECISION AND REASONS FOR DECISION

Dr. Cauchi was charged in the Notice of Hearing with professional misconduct under clause 51(1)(a) of the *Health Professions Procedural Code* (the **Code** which is Schedule 2 to the *Regulated Health Professions Act, 1991*, in that he has been found guilty of an offence that is relevant to his suitability to practise.

Dr. Cauchi pleaded guilty to the allegation set out above.

EVIDENCE

The Committee was presented with a Statement of Agreed Facts, containing the following:

1. Dr. Cauchi has been licensed to practise medicine in Ontario since 1970. He is a general practitioner, carrying on a practice in the city of London, where he now practises cosmetic medicine and surgery. Prior to 1997, Dr. Cauchi practised general medicine in the town of Goderich, Ontario.
2. In 1997, Dr. Cauchi sold a number of assets, including his house, the attached office building, medical equipment and supplies and goodwill from his general practice (collectively the **Premises** to Dr. M. and his wife Ms. L.
3. After purchasing the premises and commencing his practice, Dr. M. reviewed some of Dr. Cauchi's billing to OHIP. As a result, Dr. M. complained to OHIP about Dr. Cauchi's billing practices.
4. Subsequently, OHIP reviewed Dr. Cauchi's billing profile and initiated an audit by soliciting responses from 100 of Dr. Cauchi's former patients. As a result of the responses received, an investigator from the Ministry of Health and a constable of the Police Services were assigned to conduct an investigation of Dr. Cauchi.

5. The investigation led to the swearing of an affidavit alleging two counts of fraud over \$5,000.00 against Dr. Cauchi, particulars of which included:
 - (a) that Dr. Cauchi improperly billed OHIP \$11,210.00 for counselling charges with respect to 25 patients in circumstances where he did not personally see the patients on all the dates for which he billed OHIP, or did not see them at all, but rather they were seen by his sister, a fitness consultant, who provided the counselling for which Dr. Cauchi billed OHIP. Some patients were also required to pay directly for some of these sessions;
 - (b) that Dr. Cauchi, having performed a consultation or assessment, provided counselling at a single, lengthy session, and billed OHIP for the consultation or assessment on one date and the counselling fee on another so that OHIP would pay him for both services, despite these services having been rendered on one day;
 - (c) that Dr. Cauchi, in selling the premises to Dr. M. and his wife, mis-stated as goodwill, the value of his billings to OHIP insofar as is set out above, not all of Dr. Cauchi's billings were properly billable to OHIP.
6. Dr. Cauchi pleaded guilty to both counts of fraud in the Ontario Court (General Division) on March 29, 1999.
7. The Honourable Mr. Justice P.H. received a joint submission from the Crown and the defence, and sentenced Dr. Cauchi to the following:
 - (a) a fine of \$5,000.00 on count one;
 - (b) a fine of \$10,000.00 on count two;
 - (c) a restitution order in the amount of \$11,200.00 in favour of the Ministry of Health on count one; and,
 - (d) a victim fine surcharge of \$100.00 on count two.

The contents of the above Statement of Agreed Facts were briefly summarized by counsel for the College and by counsel for Dr. Cauchi and there was no material disagreement between the two summations. Counsel for Dr. Cauchi also filed a brief containing letters of reference in respect of the doctor which were reviewed by the Committee. No other evidence was filed.

PENALTY

Counsel for the College of Physicians and Surgeons and counsel for Dr. Cauchi agreed that an appropriate penalty would be:

- (a) that the Discipline Committee request Dr. Cauchi to appear before it to be reprimanded;
- (b) the fact of the reprimand to be recorded on the Register;
- (c) that Dr. Cauchi be required to pay a \$5,000.00 fine to the Minister of Finance; and
- (d) that Dr. Cauchi be required to pay \$3,000.00 in costs to the College.

The Committee accepted that this was an appropriate penalty and ordered the penalty to be imposed. The Committee accepted the penalty based on submissions made by Dr. Cauchi's counsel, which included, *inter alia*:

- (a) Dr. Cauchi had been in practice for thirty years without experiencing any prior problems;
- (b) Dr. Cauchi had apologized to Dr. M. and had proceeded to make restitution;
- (c) Dr. Cauchi had already been subject to criminal charges, having been charged in *The Criminal Code* with two counts of fraud over \$5,000;
- (d) Dr. Cauchi had pled guilty to both counts of fraud;
- (e) Dr. Cauchi had paid fines of \$15,000, made restitution in the amount of \$11,210 and paid a victim fine surcharge of \$100;
- (f) Dr. Cauchi, who appeared before the Committee, was genuinely apologetic for his conduct.

Dr. Cauchi waived his right of appeal and the reprimand was administered.

