

INDEXED AS: PANDHI (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 26(2) or Section of the *Health Procedural
Code*, being Schedule 2 of the *Health Professions Act*,
1991, S.O. 1991, c.18.

B E T W E E N:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and –

DR. HEMANT MANILAL PANDHI

PANEL MEMBERS:

DR. J. DOHERTY (CHAIR)
DR. J. LAMONT
DR. M. SPRUYT
J. FREDERICK
J. MARTEL

Hearing Date: April 2, 2001

Decision/Released Date: April 2, 2001

DECISION AND REASONS FOR DECISION

This matter was heard and disposed of by formal Order of the Discipline Committee of the College of Physicians and Surgeons of Ontario on April 2, 2001.

THE ALLEGATIONS

It was alleged in the Notice of Hearing that Dr. Phandi was guilty of professional misconduct in that:

1. Under paragraph 1(1)33 of Ontario Regulation 856/93, he had 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;
2. Under clause 51(1)(b) of the *Health Professions Procedural Code* ("the Code"), which is schedule 2 to the *Regulated Health Professions Act, 1991*, the governing body of a health profession in a jurisdiction other than Ontario had found that Dr. Pandhi committed an act of professional misconduct that would, in the opinion of the panel of the Discipline Committee holding the hearing of which this document was notice, be an act of professional misconduct as defined in Ontario Regulation 856/93; and
3. Under subsection 1(3) of Ontario Regulation 856/93, the governing body of a health profession in a jurisdiction other than Ontario had made a finding of professional misconduct or a similar finding against Dr. Pandhi, and the finding was based on facts which would be an act of professional misconduct as defined in subsection 1(1) of Ontario Regulation 856/93.

THE PLEA

Dr. Pandhi pleaded guilty to the allegation of professional misconduct set out above.

THE EVIDENCE

An Agreed Statement of Facts was filed as an exhibit and established the following facts:

1. On September 22, 2000, the State Board for Professional Medical Conduct in the State of New York (the “New York State Board”) made a Determination and Order that Dr. Pandhi committed various acts of professional misconduct, including:
 - a) practicing with gross negligence;
 - b) practicing with negligence on more than one occasion;
 - c) practicing with incompetence on more than one occasion;
 - d) failing to maintain records;
 - e) fraud; and
 - f) moral unfitness.
2. The findings made by the New York State Board were based on its review of Dr. Pandhi’s care of nine patients in the emergency room at two different hospitals. Findings of professional misconduct were made with respect to eight patients.
3. The New York State Board’s determination of fraud related to its findings that Dr. Pandhi had falsified medical records by documenting examinations that he never actually performed. There was no evidence that Dr. Pandhi falsified these records for any financial gain.
4. Dr. Pandhi had filed a Notice of Appeal (alleging errors of fact and law) with respect to the Findings, Determination and Order of the New York State Board, which appeal had not yet been heard.
5. In February, 2000, while disciplinary proceedings were pending before the New York State Board, Dr. Pandhi applied for and voluntarily agreed to a Non-Disciplinary Order (the “Interim Order”) that required that he abide by certain conditions until the formal disciplinary proceedings were adjudicated. As part of the Interim Order, Dr. Pandhi agreed:

- a) that he would be prohibited from practicing medicine in the State of New York until the final determination of the disciplinary proceedings before the New York State Board; and
 - b) that he would notify the medical licensing agency of any other state or jurisdiction in which he held or applied for medical licensure of the Order to which he was subject.
- 6. Dr. Pandhi did not notify the College of Physicians and Surgeons of Ontario (the “College”) of the Interim Order.
 - 7. On May 10, 2000, Dr. Pandhi completed the annual survey of the College. In responding to the survey, Dr. Pandhi advised the College that he had not entered into an agreement with, nor made a promise or given an undertaking to, a licensing authority in the face of a potential disciplinary action by the authority. Given the terms of the Interim Order, this was not an accurate or true statement.
 - 8. On July 10, 2000, the College received a letter from Dr. Pandhi’s lawyer in New York. In his letter he advised the College that he had advised Dr. Pandhi that the Interim Order applied to New York State and not to any of Dr. Pandhi’s activities outside of New York, and that the Interim Order did not require Dr. Pandhi to notify any Canadian hospitals in Ontario or licensing agencies, including the College.
 - 9. Dr. Pandhi attended at the Physician Review Program at McMaster University (“PREP”) on February 14, 2001. Dr. Pandhi received a favourable PREP Report and was found to be functioning at a Category 2 level.
 - 10. Dr. Pandhi has been licensed to practice medicine in Ontario since 1987.
 - 11. The College had received no further information or evidence regarding misconduct by Dr. Pandhi or patient complaints against him in Ontario.

FINDINGS

The Committee accepted Dr. Pandhi's plea and found him guilty of professional misconduct as alleged in the Notice of Hearing.

PENALTY AND REASONS FOR PENALTY

A joint submission with respect to penalty and costs was presented to the Committee by counsel for the College and counsel for the member.

The Committee carefully considered the facts giving rise to the finding of guilty and the joint submission of the parties. The Committee unanimously agreed that Dr. Pandhi's conduct warranted serious sanction.

The Committee also considered that Dr. Pandhi's plea of guilt demonstrated remorse for his behaviour and obviated the necessity for a potentially lengthy and costly hearing.

The Committee therefore concluded that the joint penalty submission properly reflects disapproval of Dr. Pandhi's conduct and fulfils the objectives of both general and specific deterrence. As well, this penalty addresses the need to protect the public with regard to Dr. Pandhi's qualifications to practice emergency room medicine.

ORDER

The Discipline Committee made the following Order as to penalty and costs:

1. Dr. Pandhi was directed to attend before the Discipline Committee to be reprimanded and that the fact of the reprimand be recorded on the register;
2. The Registrar was directed to suspend Dr. Pandhi's certificate of registration to practice medicine in the Province of Ontario for a period of three (3) months, commencing on January 10, 2001 until April 10, 2001;

3. The Registrar was directed to impose the following term, condition, and limitation on Dr. Pandhi's certificate of registration, limiting his practice to general practice pending an assessment agreeable to the Registrar confirming that Dr. Pandhi displays the knowledge, skill and judgment that demonstrates that he is fit to practice emergency room medicine, except as required by the assessment;
4. Dr. Pandhi was ordered to pay costs to the College in the amount of \$5,000.00, to be paid by no later than June 30, 2001; and
5. The Registrar was directed to register the result of any successful appeal by Dr. Pandhi of the Determination and Order of the State Board for Professional Medical Conduct in the State of New York in the matter of Hemant Pandhi, M.D. made September 22, 2000.