

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Virani, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of the patients or any information that could disclose the identity of the patients 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. Virani, 2016**
ONCPSD 32

**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. MIRZA RAJABALI VIRANI

PANEL MEMBERS:

DR. M. GABEL (CHAIR)
MR. S. BERI
DR. M. DAVIE
MR. A. RONALD
DR. P. POLDRE

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PUBLICATION BAN

Hearing Date: **June 20, 2016**

Decision Date on Finding: **June 20, 2016**

Decision Date on Penalty: **September 21, 2016**

Release of Written Reasons on Finding and Penalty: **September 21, 2016**

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 20, 2016. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct, and it reserved its finding on penalty and costs.

THE ALLEGATION

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

1. under paragraph 1(1)33 of O. Reg. 856/93, in that he has 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.

RESPONSE TO THE ALLEGATION

Dr. Virani admitted the allegation in the Notice of Hearing.

THE FACTS

The following Statement of Facts and Admission on Liability was filed as an exhibit and presented to the Committee:

1. The College of Physicians and Surgeons of Ontario (“the College”) and Dr. Mirza Rajabali Virani, (“Dr. Virani”) agree to the following facts:

BACKGROUND

2. Dr. Virani is a 67 year old physician who practices family medicine in Markham, Ontario.
3. Dr. Virani obtained his medical degree in Iran in 1978. He obtained his Certificate of Independent Practice in Ontario in 1983. At the relevant times, Dr. Virani

also had a company called MRV International that had an account with the Royal Bank of Canada (“RBC”).

4. In 2006, Dr. Virani met Arshad Latif (“Latif”), a purported businessman from Pakistan, who made a business investment proposal to Dr. Virani. Dr. Virani invested \$25,000.00 in the investment proposed by Latif. Within a week or two of making his investment with Latif, Dr. Virani lost his \$25,000.00.

5. A few weeks later, Latif proposed another business investment to Dr. Virani to try and recoup the losses from the previous failed investment. Dr. Virani brought the proposal, which involved buying thermocouples and sending them to Pakistan, to his patient, Patient A. Dr. Virani introduced his patient, Patient A, to Latif; Dr. Virani did not tell Patient A that he had lost \$25,000.00 in the earlier deal with Latif. According to Dr. Virani, he still trusted Latif.

PATIENT A

6. Patient A was a patient of Dr. Virani between approximately 1989 and 2011. Patient A is originally from Iran. One of the reasons that he attended on Dr. Virani for medical care is because Dr. Virani completed his medical training in Iran and speaks Farsi.

7. Over the years, Patient A has brought members of his family in as patients for Dr. Virani and has referred other members of the Iranian-Canadian community to his practice.

8. Patient A thought of Dr. Virani as a successful, trustworthy individual, a wealthy man and a respected member of the community.

9. Patient A did not socialize with Dr. Virani but, over the years consulting him as a physician, he came to view Dr. Virani as a friend.

10. Dr. Virani knew that Patient A had a successful business and a line of credit and was building a new home for his family. All of this information had been discussed during medical appointments. At one point, Dr. Virani suggested they become

business partners and made requests for money, set out below. Patient A consulted with his lawyer who advised that Patient A should obtain collateral; however Patient A trusted Dr. Virani and did not obtain collateral or enter into written agreements with Dr. Virani regarding the loans he made to him, described below.

11. In August 2006, Dr. Virani telephoned Patient A while he was abroad on personal matters and told him that he needed \$60,000.00 right away. Patient A wanted to help Dr. Virani and so he told his wife, who had remained at home in Canada, to obtain a bank draft payable to Dr. Virani out of Patient A's line of credit. Patient A's wife delivered the bank draft to Dr. Virani on August 30, 2006.

12. Upon Patient A's return to Canada, he met with Dr. Virani in September 2006. Dr. Virani introduced Latif to Patient A who made a business proposal to Patient A that involved sending thermocouples to Pakistan: if Patient A invested \$448,000.00 he would make a \$33,000.00 profit in one month.

13. Patient A was not interested in the investment but agreed to loan \$448,000.00 to Dr. Virani. Dr. Virani was aware that the money was borrowed from Patient A's line of credit, secured on Patient A's home. Dr. Virani agreed to pay the interest on the line of credit. Ultimately, Dr. Virani paid only four interest installments on the line of credit, totaling \$15,134.82.

14. On October 16, 2006, Patient A went to the RBC with Dr. Virani and Latif and provided a draft in the amount of \$448,000 to MRV International. Dr. Virani then wrote a cheque for the same amount to Latif's company from the MRV account. In the course of this transaction, which involved transactions at the RBC and a bank in Pakistan, Dr. Virani was informed by the RBC that it would not deal with the bank in Pakistan because RBC viewed it as a dubious transaction and were very cautious in dealing with Pakistani banks. Dr. Virani did not pass this information along to Patient A.

15. Months passed and Dr. Virani provided various reasons for not repaying the loan.

16. In February 2007, Dr. Virani promised to pay back the original \$60,000.00 and the subsequent loan of \$448,000.00 if Patient A loaned him a further \$53,410.00 in order to have a shipment of plastic goods released. Dr. Virani told Patient A that the shipment of plastic goods was worth \$629,000.00. Patient A loaned him another \$53,410.00 on February 16, 2007.

17. On the same date, Dr. Virani provided Patient A with cheques in the amounts of \$448,000.00, \$33,000.00 and \$53,410.00. When Patient A went to the bank, he was informed that Dr. Virani had put stop payments on the cheques on the same day they were written.

18. On April 15, 2007, Dr. Virani provided a cheque in the amount of \$53,410.00 that Patient A was able to cash.

19. Patient A contemplated legal action against Dr. Virani but did not pursue an action on the belief that he would not get any money back.

20. Patient A and his family continued to see Dr. Virani as their physician after the above events in the hope that Dr. Virani would eventually pay the money back.

21. Dr. Virani repaid Patient A a total of \$128,544.82 prior to the bankruptcy proposal including the reimbursement for freight charges in the amount of \$53,410.00 (as indicated in paragraph 18), interest payments totaling \$15,134.82 (as indicated in paragraph 13) and reimbursement of the \$60,000.00 loaned in August 2006.

PATIENT B

22. In approximately the same time period as set out above, Dr. Virani borrowed funds in relation to Latif's investment proposals from a second patient, Patient B. He also introduced Patient B to Latif. Dr. Virani did not inform the second patient about the initial failed investment with Latif where Dr. Virani lost \$25,000.00.

23. Patient B was a patient of Dr. Virani between approximately 1990 and 2007. Patient B is originally from Iran. According to Patient B, in Iran, a physician occupies a very high level in society and is viewed as an extremely trustworthy and

important person. Patient B trusted Dr. Virani and eventually several members of Patient B's family became patients also.

24. The two patients, Patient B and Patient A, did not know each other at the time of these events and did not know that each was lending money to Dr. Virani.

26. Over the years, in the course of the doctor-patient relationship and ensuing friendship, Dr. Virani became aware of Patient B's business affairs and financial success. Patient B felt comfortable with Dr. Virani because Dr. Virani had studied in Iran, spoke Farsi, and had many patients in the Iranian community to which Patient B belonged.

27. Amongst the personal details Patient B shared with Dr. Virani were details of his business dealings and the fact that Patient B had a substantial line of credit available for his business.

28. In September 2006, Dr. Virani introduced Latif to Patient B. Dr. Virani told Patient B about an investment opportunity that he wanted to discuss with Patient B. Patient B told Dr. Virani that he was not interested in the investment, and indicated that he did not trust anybody because of the business he was in. Dr. Virani asked Patient B if he trusted him. Patient B replied that he trusted Dr. Virani "one hundred percent". He agreed to lend money to Dr. Virani if he needed money and to use his line of credit to do so. Dr. Virani offered to pay interest on the loan and Patient B refused as his religious beliefs do not permit interest payments.

29. Patient B loaned Dr. Virani \$150,000.00 from his line of credit. The money was deposited in Dr. Virani's personal account and then immediately wired to Latif's company, Pakistan Trading Co. Dr. Virani agreed to repay the loan within one month.

30. On November 10, 2006, Dr. Virani again approached Patient B and asked for another \$51,000.00. Patient B obtained the money from his line of credit for Dr. Virani. At Patient B's request, Dr. Virani wrote out a promissory note on his prescription

pad for the total loan of \$201,000.00, undertaking in that note to return the amount unconditionally within three months, which would have been February 10, 2007.

31. Patient B attempted to collect the money owing on the loan three months later in February 2007. Dr. Virani told Patient B he was not able to repay the loan. Dr. Virani told Patient B that he needed more money to pay taxes and duties on a shipment of goods, without which he would be unable to repay any part of the loan already made. However, if Patient B were to give Dr. Virani some more money, Dr. Virani would be able to repay everything immediately.

32. On the basis of Dr. Virani's representations, Patient B loaned another \$34,633.00 to Dr. Virani on February 9, 2007. On the same date, at Patient B's request, Dr. Virani wrote three undated cheques, representing the total amount of all three loans, namely; \$235,633.00.

33. Dr. Virani told Patient B that he would be able to pay him within a few days and would tell Patient B what dates to put on the cheques. Dr. Virani never provided this information to Patient B and did not repay the loans.

34. Patient B subsequently took legal action against Dr. Virani and obtained judgment in the amount of \$235,633.00 from the Superior Court of Justice. Patient B has never collected on the judgment.

BANKRUPTCY

35. On June 30, 2011 Dr. Virani made a bankruptcy proposal which was accepted by his creditors. The proposal expires in August 2017. Both Patient A and Patient B are listed as unsecured creditors. By the time the proposal expires, Patient A, who is listed as a creditor in the amount of \$448,000.00 will have received total payments of approximately \$42,000.00. Patient B, who is listed as a creditor in the amount of \$289,096.00, will have received total payments of approximately \$27,000.00.

ADMISSION

36. Dr. Virani admits the facts set out above, and admits that the conduct described constitutes an act of professional misconduct in that he engaged in conduct or an act or omission relevant to the practice of medicine that, having regard to all of the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional contrary to section 1(1)33 of O.Reg. 856/93 made under the Medicine Act, 1991.

FINDING

The Committee accepted as true all of the facts set out in the Statement of Facts and Admission on Liability. Having regard to these facts, the Committee accepted Dr. Virani's admission and found that he committed an act of professional misconduct, in that he has 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.

PENALTY AND REASONS FOR PENALTY

During the penalty portion of the hearing, the parties presented the Committee with a Statement of Facts on Penalty which was filed as an exhibit. Victim impact statements from Patient A and from Patient B were read into the record and were filed as exhibits. The Committee also heard testimony from Dr. Virani.

Statement of Facts on Penalty

The following is the text of the Statement of Facts on Penalty:

1. The College of Physicians and Surgeons of Ontario ("the College") and Dr. Mirza Rajabali Virani, ("Dr. Virani") agree to the following facts:

PRACTICE INFORMATION

2. Dr. Virani is a 67-year old physician who received his certificate of independent practice in Ontario in 1983. He completed his medical training in Iran in 1978 and came to Canada in 1979 after completing post-graduate studies in Ireland. He practiced initially in Scarborough before moving to his current location in Markham, Ontario.

PRIOR DISCIPLINE HISTORY

3. On September 3, 1987, Dr. Virani pleaded guilty to a charge of professional misconduct, as defined in s. 27(21) of Ontario Regulation 448/80, as amended, in that he failed to maintain the standard of practice of the profession. The Discipline Committee accepted this plea and found Dr. Virani liable for professional misconduct. The Committee ordered that Dr. Virani be reprimanded. The Committee further ruled that a restriction be placed on Dr. Virani's licence such that he be prohibited from practicing anaesthesia until and unless he satisfied the Registrar that he had updated his expertise in that specialty. The restriction remains on Dr. Virani's certificate to this date.

COLLEGE INVESTIGATION

4. On his 2011 annual renewal, Dr. Virani answered "no" to the question, "Since April 1, 2010, has a court found against you in any lawsuit involving a patient or someone acting on behalf of a patient."

5. By letter dated October 4, 2011, Dr. Virani corrected his response to the question and informed the College that there was a civil judgment against him obtained by his former patient, Patient B, in the amount of \$235,633.00 plus interest of \$37,463.71 for a total of \$273,063.71.00. The Court also added \$10,000.00 in costs for a total of \$283,063.71.00. The judgment is dated September 22, 2010, (attached at TAB A of the Statement of Facts on Penalty). An appeal by Dr. Virani to the Court of Appeal was dismissed on March 3, 2011, (attached at TAB B of the Statement of Facts on Penalty).

6. Dr. Virani was unable to satisfy the judgment. He made a bankruptcy proposal that was approved by the Superior Court of Justice in August 2011. In the bankruptcy proposal, Patient B is listed as an unsecured creditor for the amount of \$289,096.00.

7. After receiving Dr. Virani's corrected response on the annual renewal, the College commenced an investigation and interviewed Patient B. Patient B told the College investigator that another person listed on the bankruptcy proposal was also a patient of Dr. Virani. Patient A, the other patient, was listed as a creditor in the bankruptcy documents in the amount of \$448,000.00. Subsequently, the College also interviewed Patient A in its investigation.

8. The bankruptcy proposal expires on August 30, 2017, following which time Dr. Virani will no longer be liable to any of his creditors.

ECONOMIC LOSSES SUFFERED BY THE PATIENTS

9. After final payments under the bankruptcy proposal, Patient B will remain out of pocket in the amount of approximately \$261,396.00. After final payments under the bankruptcy proposal, Patient A will remain out of pocket in the amount of approximately \$406,000.00. Neither figure includes any interest calculation.

10. As a result of the financial losses he incurred in loaning money to Dr. Virani from his business line of credit, Patient B was unable to pay down his line of credit and was forced to sell the building that he owned mortgage-free and from which he ran his business. He is currently running his business from a rental premise. Patient B incurred legal fees in pursuing legal action against Dr. Virani which yielded the judgment referred to above that became unenforceable as a result of Dr. Virani's bankruptcy.

ECONOMIC LOSSES SUFFERED BY DR. VIRANI

11. Apart from the monies borrowed from Patient A and Patient B that are described in the agreed statement of facts on liability, Dr. Virani borrowed money from other friends and family in the amount of \$190,000.00. This amount includes the initial

amount of \$60,000 loaned by Patient B. Dr. Virani repaid \$171,000 of the \$190,000, (including \$60,000 to Patient B) prior to entering into bankruptcy.

12. In the course of his dealings with Latif, Dr. Virani paid approximately \$278,843.00 to Latif for various business investments. This sum was comprised of the \$190,000 described in the preceding paragraph, and personal funds from Dr. Virani. Following his bankruptcy, Dr. Virani's house was sold by power of sale in August 2011.

CRIMINAL CHARGES

13. Dr. Virani was arrested and charged with fraud in May 2007. Charges against Dr. Virani were withdrawn in September 2007.

MISCELLANEOUS

14. In October 2012, Dr. Virani attended a course on "Understanding Boundaries: Managing Risk inherent in the Doctor Patient Relationship" at the University of Western Ontario.

ADMISSION

15. Dr. Virani admits the facts set out above.

Victim Impact Statements

The Committee considered the victim impact statements that were marked as exhibits and were read into the record. Patient B described the financial impact of Dr. Virani's actions on his business. He lost his business property and had to move to a rented facility. He suffered financial losses related to interest payments he had to make on the money that he lost to Dr. Virani. Patient B's emotional and mental well-being suffered and he was hospitalized due to nervous breakdowns. His family relationships deteriorated and he is continuing to rebuild them. Patient A recounted that he got very depressed, after which time he went into therapy for a long time.

Testimony of Dr. Virani

In his testimony, Dr. Virani described his current financial challenges and the impact that they have had on his spouse and four adult children, three of whom still live at home. He apologized to his patients and to the College for his actions. Dr. Virani acknowledged his naïveté and poor judgment. He acknowledged that he “threw good money after bad while the writing was on the wall.”

On cross-examination, Dr. Virani admitted that he has no plans to reimburse the two patients for the balance that he has not already repaid after his proposal in bankruptcy expires in August 2017. He was unable to explain why he had provided an incorrect declaration in his 2011 College membership renewal about whether a court had found against him since April 2010 in any lawsuit involving a patient.

Positions of the Parties

Both the College and Dr. Virani made proposals on penalty. Both proposals included a reprimand and payment of costs to the College of a one-day hearing at the Tariff rate of \$5,000.00. Both also included a term and condition to be imposed on Dr. Virani’s certificate of registration of an educational nature: the College asked that Dr. Virani be required to complete a course on ethics to be approved by the College at his expense, and Dr. Virani proposed that he attend six months of individual counselling and educational sessions, at his own expense, in an ethics and boundary course with an expert approved by the College, addressing ethics, fiduciary duty and undue influence in professional relationships.

The parties agreed that there should be a suspension of Dr. Virani’s certificate of registration, but they disagreed as to: the length of the suspension, whether any portion of the suspension should be remitted on terms, and whether the suspension should be served consecutively or intermittently. The College proposed a 12-month suspension of Dr. Virani’s certificate of registration, to be served consecutively. Dr. Virani proposed a 7-month suspension, with five months to be remitted on terms and conditions related to compliance with his bankruptcy proposal and the individual counselling and educational sessions related to ethics and boundary issues referred to above. He further proposed that the remaining two months of his suspension, after the five months had been remitted, not

be served consecutively: one month would be served within 90 days from the date the penalty order was made, and one month would be served during the first half of 2017.

Penalty Principles

The Committee was mindful of the principles relevant to the imposition of penalty in discipline hearings. The protection of the public, particularly of current and future patients of the practitioner, is of paramount consideration. Other relevant principles include: maintenance of public confidence in the ability of the profession to govern its members and in the reputation and integrity of the profession; general deterrence to all members of the profession; specific deterrence to the member; and the potential for rehabilitation of the member. Aggravating and mitigating factors, if any, pertaining to the events in question should also be considered.

The Committee recognized that proportionality was an important factor to consider as was stated by this Committee in *Minnes* (2015 ONCPSD 3): “(t)he most severe penalties should be imposed for the most serious transgressions.”

Although it is agreed that similar cases should result in similar penalties, exact concordance is seldom found among the facts of cases. Rather, each case has unique aspects that must be considered accordingly. The Committee noted the ruling of the Divisional Court of Ontario in the case of *Stevens v. the Law Society of Upper Canada* (1979) which stated that:

“A conscious comparison should be made between the case under consideration and similar cases wherein sentences were imposed. If the comparison with other cases is not undertaken, there may be such a wide variation in the results so as to constitute not simply unfairness but injustice.”

Review of Cases

The Committee reviewed previous College discipline cases in which financial dealings with the physicians’ patients were elements of the case. In *CPSO v. Devgan* (1993), the physician borrowed \$53,000.00 from a patient who owned a restaurant, to invest in a real

estate venture. Dr. Devgan did not invest any of his own money in the real estate venture. He subsequently repaid the principal sums, but did not share the profits of the real estate investment with the patient. Shortly afterwards, on three separate occasions the patient agreed at Dr. Devgan's request to mortgage her restaurant property for, respectively, \$164,000.00, \$83,000.00, and \$425,000.00, again for purposes of the doctor's real estate ventures. The patient received independent legal advice for the first two mortgages, but not the third one. The patient received no benefit from any of these transactions. The first two mortgages were re-paid out of the proceeds of the third. Dr. Devgan defaulted on payments under the \$425,000.00 mortgage. A settlement of the patient's civil suit called for Dr. Devgan to make payments to the patient over 105 months. Dr. Devgan's penalty was a reprimand and a fine of \$5,000.00.

The case of *CPSO v. Kumalo (2000)* involved a physician who was a general practitioner, who asked a patient for, and received, an interest-free loan of \$7,500.00. Dr. Kumalo's cheque in satisfaction of the loan was returned NSF, but after civil proceedings, the patient recovered most of the loan amount. The Committee in that case noted that the relationship between Dr. Kumalo and his patient was unequal and amounted to undue influence because of the patient's gratitude to Dr. Kumalo for intervening on her behalf to arrange surgery for her colon cancer. The Committee, in its decision to order a reprimand, noted that Dr. Kumalo showed genuine remorse for his actions. In addition, the Committee noted that Dr. Kumalo had repaid the loan.

In *CPSO v. Mahon (1997)*, Dr. Mahon borrowed \$10,000.00 from a patient who had suffered head injuries in an accident and had post-traumatic health problems including cognitive difficulties. She was also employed in the physician's office as part of her therapy. He did not advise the patient to get independent advice before making the loan to him. By the time of the hearing, Dr. Mahon had re-paid \$5,000.00. He stated that due to serious financial difficulties he was unable to pay the balance but hoped to be able to do so in future. The Committee ordered that he be reprimanded and that his certificate of registration be suspended for 60 days: an initial period of 30 days and then a further 30 days one year later. However, the suspensions would be lifted upon Dr. Mahon making full reimbursement to the patient.

In the case of *CPSO v. Porter (2012)*, the patients were husband and wife. They developed a personal relationship with Dr. Porter, including home visits with their families and vacations together. During a period of time when Dr. Porter was suspended from his psychiatric practice, the husband and wife gave \$24,900.00 to Dr. Porter. They maintained that these amounts were loans. Dr. Porter claimed that the money was a gift. At the time of the hearing, Dr. Porter had returned between \$5,000.00 and \$7,000.00 to his patients and gave an undertaking to repay the amounts in their entirety. The Committee ordered a reprimand and a one-month suspension.

The physician in *CPSO v. Vasovich (2015)* provided medical care to a patient with whom she had a romantic relationship. The patient provided the physician with loans totaling \$30,000.00, in addition to other sums of money. The physician's actions resulted in a four-month suspension, a reprimand and the requirement to complete a course on professional boundaries. However the reasons for penalty focused on the physician's conduct in treating a family member, not on the fact that the physician accepted loans from his patient.

CPSO v. Muirhead (2014) involved a GP psychotherapist who committed numerous boundary violations such as hugging patients, exchanging gifts, and having contact with patients outside the patient-physician relationship. Dr. Muirhead also loaned money to four patients, accepted a loan from another, induced a patient to personally guarantee a \$50,000 bank loan to him, and induced another to give him \$15,000.00 for "investment" on behalf of the patients' parents. He also admitted to having failed to maintain the standard of practice of the profession in numerous respects. Eventually all loans were repaid. Dr. Muirhead received an 18-month suspension.

CPSO v. Glumac (2016) concerned a psychiatrist who was found to have sexually abused a patient. He also engaged in multiple boundary violations with the patient. In addition, Dr. Glumac engaged in various financial transactions with the patient and her husband, including loaning the patient \$1,000.00, recommending a friend as a business advisor to the patient and her husband (which resulted in a financial loss to the patient's business), and borrowing \$20,000.00 from the patient after she and her husband had received an

inheritance. That loan was eventually repaid. Dr. Glumac's certificate of registration was revoked.

The Committee did not consider *Muirhead* and *Glumac* to be equivalent cases to this one as the physicians' misconduct went well beyond making loans to and accepting loans from patients.

The Committee found the case of *CPSO v. Dhaliwal (2003)* to have several similarities to the matter under consideration. Dr. Dhaliwal asked a total of seven patients for loans varying from \$5,000.00 to \$75,000.00. Dr. Dhaliwal re-paid only a fraction of what he owed, in a number of cases only after the patient had gone to court and obtained judgment against him. He wrote several cheques that were returned for insufficient funds. Dr. Dhaliwal was given a reprimand and a 10-month suspension, divided between an initial 4 months, and a subsequent 6 months to be served 18 months after completion of the initial 4 months. The second 6 months of suspension was to be remitted if he provided restitution to patients in fixed amounts. He was also ordered to take an ethics course and to pay costs. In 2012, Dr. Dhaliwal was suspended for a further three months when it became known that two patients who, according to his testimony in 2003 had been repaid in full, had not been.

FINDINGS

The Committee reviewed the key elements of the case before it. Dr. Virani violated professional boundaries by using his patients' personal financial information, obtained in the context of a patient-physician relationship, in an attempt to further his own financial interests. He used the power imbalance that exists between a physician and a patient in an attempt to enrich himself. He breached the trust that his patients conferred upon him to manipulate his patients to loan him very substantial sums of money (in excess of \$700,000.00).

The Committee noted the vulnerability of patients that exists in large part as a result of the power imbalance in the doctor-patient relationship. In addition, patients place immense trust in their physicians and expect their physicians to act in their best interests.

The influence of these two factors is illustrated by the two patients, who despite their own business backgrounds, were vulnerable because of the immense trust they mistakenly bestowed upon Dr. Virani due to his status in the Iranian-Canadian community. Both patients felt that Dr. Virani's Iranian medical training and his ability to speak Farsi were elements that increased their level of trust in their physician. Given the multicultural nature of the patient population in Ontario, the Committee was particularly aware in this case of the need for all physicians to recognize the role that sharing an ethnic or linguistic background with patients may have in establishing trust that can then be breached when enticing patients into financial dealings. Dr. Virani capitalized on his patient-perceived status in the Iranian-Canadian community to obtain money from these patients. One patient even refused to ask for interest on the loan because of his religious background. In the case of Patient A, Dr. Virani's requests for money began while the patient was abroad for personal reasons. The Committee found this to be particularly despicable.

Dr. Virani's dishonesty was demonstrated when he failed to disclose to his patients the nature of his own financial losses to Mr. Latif and the fact that the local RBC bank would not deal with the Pakistani bank that Mr. Latif was using for his business dealings. Furthermore, Dr. Virani blatantly gave his patients cheques without having sufficient funds available at the time. By the time his proposal in bankruptcy expires, Dr. Virani will have made only modest repayments to the patients and he testified that he has no future plans to repay his patients after that. Until the hearing, Dr. Virani had not apologized to his patients.

The Committee found the circumstances of this case to be different from those in most of the previous cases cited above. In many of the cases, the amounts that the physician obtained from his patients were much smaller than in this case. In several (*Devgan, Kumalo, Mahon and Porter*), the physician either agreed to repay the patient, did repay the patient in full, or repaid part of the money and either hoped or undertook to repay the balance. In this case, by contrast, Dr. Virani's promises of repayment were insincere and deceitful, as shown by the fact he gave the patients cheques without having sufficient financial resources to honour them. Dr. Virani made only very modest repayments. He will not make his patients whole and the two victims seem likely to recover only a very

small fraction of their financial losses. In *Kumalo*, the physician expressed genuine remorse for his actions. In this case, the Committee was not convinced that Dr. Virani was remorseful regarding the financial losses his patients incurred because of his actions. The Committee found his testimony in this regard to be self-serving and devoid of contrition, and not a genuine expression of remorse.

As a mitigating factor, the Committee recognized Dr. Virani's cooperation with the College in this matter. The Committee also noted Dr. Virani's previous discipline history, but because it was related to a clinical care issue, the Committee did not view this as a significant aggravating factor.

SUMMARY AND CONCLUSION

The Committee concluded that the appropriate sanction in this matter is an eight-month suspension, a requirement that Dr. Virani successfully complete an ethics course, a reprimand, and costs of a one day hearing.

The Committee viewed Dr. Virani's proposal of a 7-month suspension, with five months to be remitted on various terms and conditions, to be really just a two-month suspension, which would not properly reflect the seriousness of his misconduct. The Committee also was not impressed with the proposed conditions upon which the five months would be remitted. Compliance with his bankruptcy proposal would still leave the two patients with significant shortfalls. The Committee did not see his completing an ethics course as being worth a five-month reduction to the term of his suspension, particularly having regard to his lack of insight and remorse. The Committee also did not agree that Dr. Virani should be permitted to serve his suspension in non-consecutive periods; on his proposal, he would serve one month per year separated by a year, which the Committee viewed as akin to an annual vacation. Such a suspension would not have the required financial bite to Dr. Virani.

The Committee felt that the 12-month suspension requested by the College was too long, and was out of proportion to the penalties imposed in the prior cases. The Committee

concluded that an 8-month suspension, served consecutively, would appropriately express its view of the very serious nature of Dr. Virani's misconduct, and would thus maintain the public's confidence in the profession's ability to govern its members. It would serve as a general deterrent to physicians against taking advantage of the vulnerability of patients who trust them due to shared common ethnicity and ability to speak the same language, for their own personal gain. Along with the reprimand that the Committee is ordering, the 8-month suspension will also act as a specific deterrent to Dr. Virani to never again engage in such conduct.

ORDER

Therefore, the Committee ordered and directed that:

1. The Registrar suspend Dr. Virani's certificate of registration for an eight (8) month period effective immediately;
2. The Registrar impose the following term, condition and limitation on Dr. Virani's certificate of registration, to be removed once the College receives proof of completion of the course:
 - a. Dr. Virani shall successfully complete the next available course in Ethics that is approved by the College, at his own expense.
3. Dr. Virani shall appear before the Committee to be reprimanded within three (3) months of the date this Order becomes final;
4. Dr. Virani to pay costs to the College for a one-day hearing in the amount of \$5,000.00 within 30 days of the date of this Order.