

**Indexed as: Abdel-Malek (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 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. MAXIMOUS YOUSSEF MEIKAEL ABDEL-MALEK**

**PANEL MEMBERS:**

**DR. T. MORIARITY (Chair)**  
**DR. E. ATTIA (Ph.D.)**  
**DR. P. HORSHAM**  
**B. FEVREAU**  
**DR. R. SHEPPARD**

<b>Hearing Date:</b>	<b>January 21, 2010</b>
<b>Decision Release Date:</b>	<b>January 21, 2010</b>
<b>Release of Written Reasons:</b>	<b>April 15, 2010</b>

## **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 21, 2010. 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 with written reasons to follow.

### **THE ALLEGATIONS**

The Notice of Hearing alleged that Dr. Abdel-Malek committed acts of professional misconduct:

1. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“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; and
2. under paragraph 1(1)34 of O. Reg. 856/93 in that he engaged in conduct unbecoming a physician.

### **RESPONSE TO THE ALLEGATIONS**

With respect to the first allegation in the Notice of Hearing, Dr. Abdel-Malek admitted that he 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 unprofessional. Counsel for the College withdrew the second allegation in the Notice of Hearing.

### **FACTS AND EVIDENCE**

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

1. Dr. Maximous Youssef Meikael Abdel-Malek (“Dr. Abdel-Malek”) is a family physician who has been authorized to undertake independent practice in Ontario since June 26, 2000.

**Dr. Abdel-Malek's training, education and practice prior to immigrating to Canada**

2. Dr. Abdel-Malek received his medical degree from Asyut University in Egypt on March 12, 1978.
3. During the period between approximately March, 1978 and September 30, 1994, Dr. Abdel-Malek practised medicine as a general practitioner and general surgeon in Egypt.
4. In addition, Dr. Abdel-Malek did a locum in Riyadh, Saudi Arabia, between February and September 1994.
5. Dr. Abdel-Malek resigned from a Hospital in Minia City, Egypt effective September 30, 1994. A copy of a letter from the Medical Director of the Hospital dated June 28, 1995 confirming the period during which Dr. Abdel-Malek was on staff is attached at Tab 1 [to the Agreed Statement of Facts].

**Dr. Abdel-Malek's activities in Canada prior to registration with the CPSO**

6. On October 15, 1994, Dr. Abdel-Malek immigrated to Canada.
7. Between his arrival in Canada on October 16, 1994 and May 21, 1998, Dr. Abdel-Malek had various occupations and engaged in various medical educational pursuits. He did not practise medicine during this time.
8. On April 3, 1998 Dr. Abdel-Malek was advised that he had passed the OIMG OSCE and was offered a place in the 1998/99 academic session of the Ontario International Medical Graduate Program ("OIMG"). Dr. Abdel-Malek commenced his OIMG pre-entry assessment program on May 21, 1998 and completed it on February 19, 1999.
9. On May 10, 1999 Dr. Abdel-Malek was offered, and accepted, a position in the residency program in Family Medicine at the University of Toronto to begin January 1, 2000.

10. In 1999 Dr. Abdel-Malek was granted a Special Register license to practise medicine in the Province of Alberta. He subsequently deferred his residency position at the University of Toronto for one year and moved to Mannville, Alberta where he practised medicine from March, 1999 until June 23, 2000.

**Dr. Abdel-Malek's applications for licensure in Ontario**

11. On March 15, 1999, Dr. Abdel-Malek applied to the CPSO for a Certificate of Registration Authorizing Postgraduate Education. A copy of this application is attached hereto at Tab 2 [to the Agreed Statement of Facts]. Dr. Abdel-Malek subsequently abandoned this application when he moved to practise medicine in Alberta as set out in paragraph 9 above.

12. On May 12, 2000, Dr. Abdel-Malek applied to the CPSO for a Certificate of Registration Authorizing Postgraduate Education. A copy of this application is attached hereto at Tab 3 [to the Agreed Statement of Facts].

13. On June 5, 2000, Dr. Abdel-Malek passed the required examinations and was granted certification by the College of Family Physicians of Canada (the "CFPC") on the basis that he,

- (a) Possessed a licence to practise in a Province or Territory of Canada (Alberta) at his time of application; and
- (b) Had completed a minimum of five years practice experience in Canada or elsewhere prior to the actual date of the examination.

14. On June 12, 2000, having obtained certification by the CFPC as set out above, Dr. Abdel-Malek applied to the CPSO for a Certificate of Registration Authorizing Independent Practice. A copy of this application is attached hereto at Tab 4 [to the Agreed Statement of Facts].

15. On the basis of his June 12, 2000 CPSO application, Dr. Abdel-Malek was registered by the CPSO to carry on independent practice in Ontario on June 26, 2000.

16. The CPSO applications referred to in paragraphs 10, 11 and 13 above (collectively, the “Applications”) contained the following request:

*“In chronological order, list the names of every jurisdiction where you have practised medicine, including all training appointments, since your graduation from medical school. For each period of practice, please provide the corresponding licence number.”*

17. In response to this request, Dr. Abdel-Malek indicated in each of his Applications that he practised medicine in Egypt until December, 1997 when, although he continued to hold a valid medical licence in Egypt, he had, in fact, ceased practising in Egypt as of September 30, 1994.

18. In addition, in his response to the same request, Dr. Abdel-Malek did not inform the College of his period of practice in Saudi Arabia between February and September, 1994.

19. Each of the Applications also contained the question (xxii): *“Have you ever discontinued the practice of medicine for any reason for one year or longer?”* Dr. Abdel-Malek answered “No” to this question when the correct answer was “yes”.

20. Further, on a declaration to account for breaks in training or practice history, a copy of which is attached hereto at Tab 5 [to the Agreed Statement of Facts], Dr. Abdel-Malek indicated that his only break in practice had been *“January, 98 to April 98 – preparation for the OIMG in Canada.”* This was inaccurate, as Dr. Abdel-Malek was actually out of practice between October 16, 1994 and May 21, 1998.

21. Dr. Abdel-Malek admits that the above information he supplied to the CPSO was not accurate in that it overstated the duration of his practice in Egypt, failed to disclose interruptions in practice after Dr. Abdel-Malek came to Canada in 1994 and did not disclose Dr. Abdel-Malek’s period of practice in Saudi Arabia.

22. Dr. Abdel-Malek admits that, in providing inaccurate information to the College in his Applications, he committed an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as

unprofessional, contrary to paragraph 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 Agreed Statement of Facts. Having regard to these facts, the Committee accepted Dr. Abdel-Malek's admission and found that he committed an act of professional misconduct in that he 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 unprofessional.

## **PENALTY AND REASONS FOR PENALTY**

Counsel for the College and counsel for the member made a joint submission as to an appropriate penalty and costs. The following Agreed Statement of Facts re: Penalty was filed as an exhibit and presented to the Committee:

### **Likely impact of Dr. Abdel-Malek's October 16, 1994 through May 21, 1998 practice-break on his Applications for registration**

1. At the time Dr. Abdel-Malek submitted his Applications, declaring a break in practice from October 16, 1994 to May 21, 1998 would not have been likely to result in the rejection of the Applications or the imposition of terms and conditions on Dr. Abdel-Malek's licensure in the absence of other concerns.

### **Dr. Abdel-Malek's training, education and practice history**

2. Dr. Abdel-Malek has continuously held a valid licence to practise medicine in Egypt from March 1, 1979 (after completing the 12 month internship) up to the present.

3. Between his arrival in Canada on October 16, 1994 and May 21, 1998, Dr. Abdel-Malek did not practise medicine, but he engaged in training, evaluation and CME activities including the following:

- (a) He re-wrote the MCCQE in March, 1995;
- (b) From April 10, 1995 to June, 1995 Dr. Abdel-Malek completed the Labour Market Language Training – Health Programme through Sheridan College. A copy of his Certificate of Completion dated June 30, 1995 is attached at Tab 1 [to the Agreed Statement of Facts re: Penalty]. A copy of his Official Letter of Standing is attached at Tab 2 [to the Agreed Statement of Facts re: Penalty];
- (c) In August, 1995 Dr. Abdel-Malek completed an Introduction to Computer Applications Course through the Meadowvale Adult Education Centre. A copy of his Certificate of Achievement is attached at Tab 3 [to the Agreed Statement of Facts re: Penalty];
- (d) Dr. Abdel-Malek wrote the Medical Council of Canada Qualifying Examination (the “MCCQE”) Part I in Spring, 1996;
- (e) He wrote the MCCQE Part II in Fall, 1996;
- (f) From January 15, 1996 to April 15, 1996 Dr. Abdel-Malek completed 87 hours of continuing medical education at the University of Toronto;
- (g) On February 3 and 4, 1996 Dr. Abdel-Malek attempted the Ontario International Medical Graduate Programme Entrance Evaluation – The Objective Structured Clinical Examination (the “OIMG – OSCE”);
- (h) Dr. Abdel-Malek undertook a Clinical Observership beginning October 30, 1996. A copy of Dr. Abdel-Malek’s identity card issued by a Health Centre is attached at Tab 4 [to the Agreed Statement of Facts re: Penalty];
- (i) He successfully re-wrote the MCCQE Part II in Spring, 1998;

- (j) On February 1 and 2, 1997 Dr. Abdel-Malek attempted the OIMG – OSCE;
- (k) On July 27, 2007 Dr. Abdel-Malek attended COPD: A Matter of Life and Breath – Mississauga, ON, sponsored by the Faculty of Medicine, University of Calgary. A copy of his Certificate of Attendance is attached hereto at Tab 5 [to the Agreed Statement of Facts re: Penalty];
- (l) On January 17 and 18, 1998 Dr. Abdel-Malek successfully sat for the OIMG – OSCE; and
- (m) In January, 1998 Dr. Abdel-Malek took the Test of Spoken English and the TOEFL. A copy of his score records are attached at Tab 6 [to the Agreed Statement of Facts re: Penalty].

4. For the period between March, 1999 and June 23, 2000, Dr. Abdel-Malek deferred his residency position at the University of Toronto and agreed to move to the remote town of Mannville, Alberta to take over the practice of his friend Dr. V who had been diagnosed with cancer. The town had a population of approximately 900 people. Dr. Abdel-Malek practised at a local medical clinic which primarily served senior citizens. Attached at Tab 7 [to the Agreed Statement of Facts re: Penalty] is a letter from the Executive Clinic Manager to the CPSO confirming Dr. Abdel-Malek's practice and expressing appreciation for his service.

5. During the same period, Dr. Abdel-Malek also practised at the local Health Centre where he covered the Outpatient Department, Long Term Care, Palliative Care and Respite Care patients. Attached at Tab 8 [to the Agreed Statement of Facts re: Penalty] is a letter from the Health Centre Coordinator to the CPSO confirming Dr. Abdel-Malek's practice and expressing appreciation for his service.

6. On December 23, 1999, the Advisory Committee for Privileges for the College of Physicians and Surgeons of Alberta recommended to the Regional Health Authority that



Dr. Abdel-Malek be granted privileges as set out in the letters and profile sheet attached at Tab 9 [to the Agreed Statement of Facts re: Penalty].

7. While practising medicine in Mannville, Alberta, Dr. Abdel-Malek completed the Communications Skills programme through the residency programme at the University of Alberta Faculty of Medicine with permission from the Chief of Family Medicine, Dr. W.

8. Since receiving licensure from the CPSO on June 26, 2000, Dr. Abdel-Malek has been continuously practising medicine as a family physician in the greater Toronto area.

9. Dr. Abdel-Malek has maintained privileges at a Toronto-area Hospital as an Associate Staff Member in the Department of Family Medicine since November 23, 2000. A copy of a letter from Mr. X and Dr. Y to Dr. Abdel-Malek dated November 24, 2000, together with “a List of Procedures to be Performed” is attached hereto at Tab 10 [to the Agreed Statement of Facts re: Penalty]. A letter dated June 26, 2007 confirming Dr. Abdel-Malek’s re-appointment to the Medical Staff for the year 2007/2008 is attached hereto at Tab 11 [to the Agreed Statement of Facts re: Penalty].

10. Dr. Abdel-Malek has continued to undertake CME activities since being registered to carry on independent practice in Ontario. An official transcript of CME activities from the CFPC for Dr. Abdel-Malek, recorded as of January 12, 2010, is attached hereto at Tab 12 [to the Agreed Statement of Facts re: Penalty].

11. Dr. Abdel-Malek has completed Facilitator Training for the Foundation for Medical Practice Education, Practice Based Learning Programs (“PBLP”) sponsored by McMaster University. Since completing his training in 2002, Dr. Abdel-Malek has served as a facilitator for a Mississauga group of family physicians that meets monthly. Attached at Tab 13 [to the Agreed Statement of Facts re: Penalty] is a copy of his certificate confirming his training and a letter from the Foundation dated July 20, 2007 thanking him for what, as of that date, was 5 years of service as a facilitator.

12. The CPSO recognized Dr. Abdel-Malek in the October, 2007 issue of *Dialogue* for his assistance in College activities. Attached at Tab 14 [to the Agreed Statement of Facts re: Penalty] is a copy of a letter from Dr. Z dated August 3, 2007 advising that Dr. Abdel-Malek would be recognized.

13. From approximately March 2005 to March 2008, Dr. Abdel-Malek supervised another doctor's practice for 3 years while that physician practised under a restricted licence and worked towards obtaining her Certificate of Registration Authorizing Independent Practice from the CPSO.

**Dr. Abdel-Malek's record with the College and co-operation with this investigation**

14. Dr. Abdel-Malek has not had any previous findings made against him by the Discipline Committee of the CPSO, nor have there been any complaints lodged with the CPSO regarding his conduct or standard of care as a physician that have resulted in any finding against him.

15. Throughout the course of the investigation by the CPSO into this matter, Dr. Abdel-Malek executed all requested consent forms to permit the College to obtain travel documents, tax records, information and documentation about Dr. Abdel-Malek from other jurisdictions, as well as educational and licensing bodies.

16. In his initial written response to the College's investigation into the inaccuracies in his Applications, Dr. Abdel-Malek did not advise the College of his period of practice in Saudi Arabia or the omission of same from his Applications. Dr. Abdel-Malek only acknowledged this inaccuracy when it was subsequently discovered and put to him by the College's investigator.

The Committee was guided in its deliberations by the principles of protection of the public, maintaining public confidence in the integrity of the profession and its self-regulation, specific and general deterrence, and the rehabilitation of the member.

The Committee reviewed the evidence and the proposed penalty. The Committee was aware that joint submissions on penalty should be accepted, unless to do so would be contrary to the public interest and would bring the administration of justice into disrepute.

The Committee also reviewed the Book of Authorities, which cited five previous decisions of the Discipline Committee involving cases of dishonesty, in which members had provided false or misleading information to the College. While the Committee is not bound by these decisions, it considers that similar fact situations should generally result in similar penalties. The facts in a number of the cases cited in the Book of Authorities were very similar to the facts in Dr. Abdel-Malek's case. In previous cases, a comprehensive penalty had been imposed, including a public reprimand, the recording of the proceeding on the register, and costs. In most cases, the member had been ordered to complete the College's Medical Ethics and Informed Consent Course.

The Committee considered the application of the relevant penalty principles stated above to Dr. Abdel-Malek's case, and concluded that the jointly-proposed penalty was comprehensive, reasonable, and fair.

The Committee notes that Dr. Abdel-Malek provided two distinct misrepresentations to the College, in both overstating the extent of his Egyptian practice, and failing to disclose his practice in Saudi Arabia. In his initial response to the College's investigation, he was less than fully forthcoming. These ethical breaches would suggest the need for Dr. Abdel-

Malek to attend the College's Medical Ethics and Informed Consent Course, in the interests of remediation.

The Committee also acknowledges that there are no concerns pertaining to patient care in this case. The service which Dr. Abdel-Malek has provided to his patients, to the communities in which he has practised, and to the medical profession in general, have been, in many ways, impressive. The Committee views this record as a mitigating factor. Furthermore, Dr. Abdel-Malek has acknowledged his wrongdoing, has cooperated with the College investigation for the most part, and has expressed remorse.

The Committee wishes to emphasize, however, the crucial importance of absolute honesty and transparency in matters between the membership and the College. Effective self-regulation depends on this honesty, as does the maintenance of public confidence in the integrity of the profession. Intentionally providing false or misleading information to the College is a very serious matter. The Committee believes that the public reprimand, and the recording of the proceedings on the register, will express to Dr. Abdel-Malek the gravity of his misconduct, and will address the principles of specific and general deterrence.

The Committee believes that an order for costs, as per the tariff for a one-day hearing, is fair and appropriate under the circumstances.

**ORDER**

Therefore, the Committee ordered and directed that:

1. Dr. Abdel-Malek successfully complete, at his own expense, the College's Medical Ethics and Informed Consent Course on the next available date, and in any event within six months of the date of the Order, and to provide proof thereof to the College.
2. Dr. Abdel-Malek appear before the panel to be reprimanded.
3. Dr. Abdel-Malek pay to the College costs in the amount of \$3,650 within 30 days of the date of the Order.
4. The results of this proceeding be included in the register.

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