

Indexed as: Hill (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 subsection 36(1) of the *Health Professions Procedural Code*,
being Schedule 2 of the *Regulated Health Professions Act*,
S.O. 1991, c. 18, as amended.

B E T W E E N:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. LAURIE LEIGH HILL

PANEL MEMBERS:

DR. O. KOFMAN (CHAIR)
DR. M. GABEL
E. COLLINS
DR. J. DOHERTY
J. DHAWAN

Hearing Date: June 14, 2006
Decision Date: June 14, 2006
Release of Written Reasons Date: July 19, 2006

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 June 14, 2006. At the conclusion of the hearing, the Committee stated its finding that the member committed professional misconduct and delivered its penalty order with written reasons to follow.

ALLEGATIONS

The Notice of Hearing alleged that Dr. Hill committed professional misconduct:

- (1) 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 Dr. Hill has been found guilty of an offence that is relevant to his suitability to practise;
- (2) 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 conduct or an act or acts 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
- (3) under paragraph 1(4) of O. Reg 856/93, in that:
 - (a) the governing body of a health profession in a jurisdiction other than Ontario has provided records to the College evidencing that an allegation of professional misconduct or incompetence or a similar allegation has been made against the member and he or she has entered into an agreement or compromise with the governing body in order to settle the matter without a finding of misconduct or incompetence or a similar finding being made;
 - (b) the College is satisfied that the records are authentic, accurate and complete; and
 - (c) the act or omission that is the subject of the allegation would, in the opinion of the College, be an act of professional misconduct as defined in

subjection (1), or would constitute incompetence as defined in section 52 of the Code.

RESPONSE TO THE ALLEGATIONS

Dr. Hill admitted to Allegation #1 of the Notice of Hearing. The College withdrew all other allegations.

EVIDENCE

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

PART I - FACTS

Dr. Hill's Background and Experience

1. Dr. Hill was born in Manchester, Jamaica on August 28, 1950. Following high school, he attended the University of the West Indies where in 1972, Dr. Hill received a Bachelor of Science in Chemistry. In 1977, Dr. Hill obtained his medical degree also from the University of the West Indies. He then completed a rotating internship following which he travelled to Canada to begin a residency program in internal medicine at Dalhousie University. Dr. Hill completed his residency in 1981. He then undertook subspecialty training in cardiology at McMaster University in 1981 and 1982, where he served as a Cardiology Fellow and the Chief Cardiology resident.
2. Dr. Hill received his Fellowship from the Royal College of Physicians and Surgeons of Canada in Internal Medicine in 1982, and in the same year, a Diplomate Certificate in Internal Medicine from the American Board of Internal Medicine. In December of 1984, Dr. Hill received a Specialist Certificate in Cardiovascular Disease from the Royal College of Physicians and Surgeons of Canada and in 1985, his Specialist Certificate in Cardiovascular Disease from the American Board of Internal Medicine. In 1989, Dr. Hill received Special Qualifications in Critical Care Medicine again from the American Board of

Internal Medicine. In 1994, Dr. Hill received Special Qualifications from the American Board of Internal Medicine in Geriatric Medicine and in 1999, received Special Qualifications in Nuclear Medicine.

FBI Investigation into Dr. Laurie Hill

3. Dr. Hill began practising in the United States in 1994. He worked for a period of time in Massachusetts and eventually relocated his United States practice to Buffalo, New York. At the same time, he maintained an active and busy practice in Ontario.
4. In 2001, certain private insurance carriers filed a complaint against Dr. Hill (and others) with the Health Care Task Force in Western New York. An investigation was undertaken by the FBI which included sending undercover officers into Dr. Hill's practice.

The Plea

5. On or about May 11, 2004, Dr. Hill entered a plea of guilty in the United States District Court, Western District of New York, in Buffalo, New York, to a one count Information charging a violation of Title 18, United States Code, Section 1035(a)(2) being a False Statement Relating to Health Care Matters ("Dr. Hill's Plea"). A copy of Dr. Hill's Plea Agreement is attached [to the Agreed Statement of Facts and Admission] at Tab 1.
6. Dr. Hill also entered a plea of guilty, on behalf of his professional corporation, Uphill Medical Associate, P.C., to a one count Information charging a violation of Title 18, United States Code, Section 287, being False Claims Against the United States ("Uphill's Plea"). A copy of Uphill's Plea Agreement is attached [to the Agreed Statement of Facts and Admission] at Tab 2.
7. The facts which form the basis for the entry of the plea of guilty are set out at paragraph 5 of Dr. Hill's Plea Agreement and paragraph 4 of Uphill's Plea Agreement. Dr. Hill admitted improperly facilitated payment of approximately

\$842.57 from Univera Healthcare and \$5,238.35 from Medicare. The total amounts agreed between the U.S. Attorney and Dr. Hill were \$6,080.92.

8. In June, 2004, in response to a charge by the New York Board for Professional Medical Conduct (the New York Board) of violating New York Education Law by being convicted of the offence set out in paragraph 5 above, Dr. Hill entered into an agreement with the New York Board whereby he agreed to surrender his license as a physician in the State of New York and the New York Board issued a Surrender Order. Dr. Hill was stricken from the roster of physicians in the State of New York. He also agreed to be mandatorily excluded from participation in any federal health care program for a period of ten years. Attached at Tab 3 [to the Agreed Statement of Facts and Admission] is a copy of the Surrender Order.
9. In June, 2004, in response to a charge by the New York Board of violating New York Education Law by being convicted of the offence set out in paragraph 6 above, Dr. Hill, on behalf of his medical corporation, Uphill Medical Associate, P.C., entered into a Consent Agreement and Order with the New York Board, wherein its certificate of incorporation was revoked effective June 4, 2004.
10. Further details of the agreement between Dr. Hill, Uphill Medical Associate, P.C. and the New York Board are contained in the Consent Agreement and Order and the Statement of Charges dated June 4, 2004, copies of which are attached [to the Agreed Statement of Facts and Admission] at Tab 4.
11. Included in the Plea Agreements is reference to a civil claim advanced against Dr. Hill. This was settled by Dr. Hill on a without prejudice basis and without any admission of liability.

Resolution of U.S. Proceedings

12. On September 8, 2004, Dr. Hill was sentenced before the U.S. Federal Court. The Plea Agreement was presented to the Court, which served as a joint recommendation from the U.S. Attorney and Dr. Hill as to an appropriate sentence.

13. The presiding judge, Judge Arcara, accepted the Plea Agreement in principle. Attached [to the Agreed Statement of Facts and Admission] at Tabs 5 and 6 respectively are copies of the Judgment and transcript of the sentencing hearing.

PART II – ADMISSION

14. Dr. Hill admits that he has committed an act of professional misconduct under clause 51(1)(a) of the Health Professions Procedural Code, which is Schedule 2 to the *Regulated Health Professions Act, 1991*, in that he had been found guilty of an offence that is relevant to his suitability to practise.

FINDING

The Committee reviewed the material submitted as attachments to the Agreed Statement of Facts and Admission, including Dr. Hill's Plea Agreement, Uphill's Plea Agreement, the Surrender Order of his medical license from the State of New York and the Consent Agreement, which revoked his professional incorporation certificate. The Committee also reviewed the Judgment issued by the US District Court and the transcript concerning the sentencing decision of that court.

In reviewing the material, the Committee was made aware of the terms of a civil claim and settlement by Dr. Hill which were included as part of the Plea Agreements. This settlement was on a without prejudice basis and without any admission of liability. The Committee therefore did not consider this claim and settlement in arriving at its decision, and would have arrived at the same decision without knowledge of this fact.

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts and Admission. Having regard to these facts and Dr. Hill's admission, the Committee found that Dr. Hill committed professional misconduct under clause 51(1)(a) of the Code in that Dr. Hill has been found guilty of an offence that is relevant to his suitability to practise.

PENALTY AND REASONS FOR PENALTY

Counsel for the College and counsel for Dr. Hill made a joint submission regarding penalty and costs. However, while this was a joint submission, one aspect of the proposed penalty was in dispute and is further discussed below.

In considering the joint submission, the Committee was aware of the high bar that must be cleared in order to reject the joint submission, either in whole or in part. That is, the penalty as presented should only be rejected if it would bring the administration of justice into disrepute.

In considering the appropriateness of the penalty, the Committee considered both mitigating and aggravating factors. As mitigating factors, Dr. Hill admitted wrongdoing, and acknowledged acceptance of responsibility for his behaviour, which saved the College the time and expense of a full hearing and showed his understanding of the transgressions. As a member of this College since 1981, Dr. Hill has had no history of professional misconduct. He made restitution to the two health insurers involved. He was also cooperative with US authorities, as noted in the Plea Agreements. The Committee also took into account his contributions, both medically and socially, to his local community as noted in the content of the letters introduced by Dr. Hill's counsel. As an aggravating factor, the Committee noted the false information in Dr. Hill's American medical records and the eight occasions of repeated billing issues.

The Committee reviewed previous discipline cases presented by both counsel for the College and counsel for Dr. Hill and noted the range of penalties in cases that had similar features. While no two cases are alike, the Committee recognizes the need to be consistent, and found that the proposed penalty met that criteria.

The Committee took into consideration that Dr. Hill has been found guilty of an offence that is relevant to his suitability to practise, the mitigating and aggravating factors noted, and that penalties should: be directed toward protecting the public; be an express abhorrence of the behaviour admitted to; uphold the standards and honour of the

profession; and provide specific deterrence to the member and general deterrence to the profession. As well, the penalty in cases of this nature, should speak to rehabilitation of the member. The Committee considers that the proposed penalty set out in the joint submission accomplishes these goals.

Paragraph 3(ii)

Counsel for the College disagreed with the term set out in paragraph 3(ii) of the proposed penalty:

Upon completion of the period of monitoring, reference to it will be deleted from Dr. Hill's certificate of registration.

Counsel for the College argued that this provision was unnecessary as it is procedure at the College to remove terms that have been completed, and that in any case, the Committee did not have the authority to make such an order. While counsel for the College advised that she understood it to be the practice that terms were removed when completed, the Committee was not presented with any evidence regarding the practice.

The Committee heard from counsel for Dr. Hill, as well as from Independent Legal Counsel on this issue.

Subsection 51(2) of the Code, provides that the Committee may make an order imposing specified terms, conditions, and limitations on a member's certificate of registration for a specified or indefinite period of time. The Committee concluded that if it may set terms, conditions and limitations for a specified or indefinite period of time, it is inherent in that ability that it can also specify criteria for the removal of these same terms, conditions and limitations. Therefore, the Committee determined that paragraph 3(ii) of the proposed penalty was within its jurisdiction to so order.

ORDER

Therefore, the Discipline Committee ordered and directed on June 14, 2006 that:

1. Dr. Hill attend before the Panel to be reprimanded, with the fact of the reprimand to be recorded on the register;
2. The Registrar suspend Dr. Hill's certificate of registration for a period of four months commencing July 1, 2006, two months of which will be suspended if Dr. Hill takes the College's ethics course or suitable equivalent course approved in advance by the Registrar, by no later than December 31, 2006;
3. The Registrar impose the following terms, conditions and limitation on Dr. Hill's certificate of registration:
 - i. Dr. Hill will retain a monitor acceptable to the College who will review Dr. Hill's OHIP billings bi-monthly for 12 months. Dr. Hill will provide the billing monitor with any documentation which he or she may request, and the billing monitor will report his or her findings to the Registrar quarterly. The cost of this review shall be borne by Dr. Hill.
 - ii. Upon completion of the period of monitoring, reference to it will be deleted from Dr. Hill's certificate of registration.
4. Dr. Hill pay costs to the College in the amount of \$2500.

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