

## NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Ravi Kakar, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the names and any information that could disclose the identity of the patients referred to orally or in the exhibits filed at the hearing, 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 or 47... 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.

**DISCIPLINE COMMITTEE  
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

**Citation:** *College of Physicians and Surgeons of Ontario v. Kakar*, 2021 ONCPSD 10

**Date:** February 18, 2021

**BETWEEN:**

College of Physicians and Surgeons of Ontario

- and -

Dr. Ravi Kakar

**FINDING AND PENALTY REASONS**

**Panel:** Mr. Peter Pielsticker (chair)  
Dr. Barbara Lent  
Mr. Jose Cordeiro  
Dr. Paul Hendry  
Dr. Heather Badalato

**Heard:** November 27, 2020

**Appearances:**

Ms. Elisabeth Widner, for the College  
Ms. Marie Henein and Ms. Sydney Hopkins, for Dr. Ravi Kakar  
Ms. Jennifer McAleer, Independent Legal Counsel to the Discipline Committee

Decision: Dr. Kakar failed to maintain the standard of practice in his writing of three third-party reports. The Committee ordered Dr. Kakar to appear before the Committee for a reprimand, directed the Registrar to suspend his certificate of registration for four months and ordered that Dr. Kakar pay costs to the College of \$10,370.

## **Introduction**

[1] An important role of a physician is to provide forms, letters or reports about patients for third-party processes that are not for the purpose of providing healthcare, such as insurance forms and documents for use in legal proceedings. Dr. Kakar provided reports about three of his patients to three different third parties, which resulted in complaints being filed with the College, alleging that the reports were inadequate. The College investigated the complaints and the College's Inquiries, Complaints and Reports Committee (ICRC) referred specified allegations to the Discipline Committee for adjudication.

Issue #1: Did Dr. Kakar fail to maintain the standard of practice in the preparation of three third-party reports?

## **Facts and Finding on Allegation**

- [2] Dr. Kakar is a 61-year-old psychiatrist who received his certificate of independent practice in 1993.
- [3] The parties submitted an Agreed Statement of Facts on Liability to the Committee for consideration. The agreed facts on liability are summarized below.

### *Complaint #1*

- On April 12, 2018, the College received an email from an Associate Professor at Queen's University, expressing concern about the comprehensiveness of a medical report dated April 10, 2018 by Dr. Kakar for one of their students (Patient 1) attesting to the student's readiness to return to an academic program following a period of medical leave.
- The College retained an expert witness, Dr. Klein, psychiatrist, to review the matter. He opined that while Dr. Kakar's direct care of Patient 1 was not an issue, Dr. Kakar's report failed to meet the standard of practice due

to “a process of overzealous advocacy which affected the objectivity of his reports.”

- In addition, the Assessor identified issues including “an over-optimistic statement regarding prognosis, advocating beyond a purely clinical framework, writing a note certifying [Patient 1]’s fitness to return prior to having seen him for an in-person reassessment and misleading statements.”
- Finally, the Assessor noted, “Given Dr. Kakar’s single-minded approach of providing reports based upon the immediately expressed need of the patient, at the expense of objectivity, and the vigorous manner in which he defended this form of advocacy, I would describe this as a significant deficit in Dr. Kakar’s writing of reports to third parties.”

### *Complaint #2*

- On August 9, 2018, Unifund Assurance Company sent an email to the College asking whether Dr. Kakar was practising within his scope in commenting on the whole person for a catastrophic impairment assessment. He had assessed a patient and prepared a report dated November 8, 2018.
- The College retained Dr. Klein to review this matter and he opined: “In my opinion, Dr. Kakar did not meet the standard of practice in that he did not make sufficient efforts to ensure the validity of his report, instead there was a process of overkill in the manner described above. This is the main concern emanating from my review of this case.”
- In addition, the Assessor stated, “As lesser concerns, but ones which are also worthy of mention, in my opinion Dr. Kakar did not clearly outline the nature and purpose of his examination of [Patient 2] in his report, and he did not provide an actual list of the documents he reviewed. Were the rest of Dr. Kakar’s report reasonable, in my opinion these deficits in and of themselves would not be sufficient to state that he did not meet the standard of practice.”

- Dr. Klein further opined that Dr. Kakar lacked skill in preparing reports: “Dr. Kakar’s report exhibits a lack of skill in his use of the DSM psychiatric classification system, by listing multiple redundant diagnoses, and by not making the distinction between symptoms and diagnoses. On a scale of mild/moderate/severe, in my opinion this is a moderate deficit. I have described this only as moderate because in my view lack of skill is only part of the problem that led to the excessive diagnosis list, the other part being a process of piling on diagnoses as part of the general overkill aspect of Dr. Kakar’s report.”

### *Complaint #3*

- On January 4, 2019, the College received a complaint from an Assistant Crown Attorney, regarding a psychiatric medicolegal report prepared by Dr. Kakar that was submitted by the defence at a criminal sentencing hearing on November 16, 2018, in the Ontario Court of Justice.
- The College retained Dr. Norris, psychiatrist, to review the matter and while he did not find any issue with Dr. Kakar’s direct clinical care of the defendant (Patient 3), he found that Dr. Kakar’s report failed to meet the standard of practice: “The report to the court revealed a limited understanding of his responsibilities and obligations to third parties. In the court report Dr. Kakar displayed a lack of knowledge, a lack of skill and a lack of judgement and in my opinion did not meet the standard of practice of the profession.”
- Further, “Dr. Kakar’s report was poorly written, unclear, inherently contradictory confusing and, at times, irrelevant. He clearly demonstrated a bias towards the patient and attempted to direct the court towards leniency by exaggerating the effectiveness of treatment that he had provided and the patient’s response to it.”

- Finally, “Dr. Kakar was unable to recognize that in his desire to advocate for the patient. He neglected his responsibilities to be objective and accurate in the preparation of the report.”

### **Admission to the allegation**

[4] Dr. Kakar admitted that he failed to maintain the standard of practice of the profession in the preparation of all three reports and that this constitutes professional misconduct.

### **Finding**

[5] The Committee accepted the findings of the assessors who reviewed Dr. Kakar’s reports. A physician is responsible to prepare careful, objective and exact reports when required and is accountable for the veracity of their content. Dr. Kakar’s reports were seriously lacking as he advocated for patients rather than providing the necessary neutral assessment of a patient’s case and he failed to validate the information he provided for completeness and accuracy. These reports clearly did not meet the requirements and expectations of the profession. We find that under paragraph 1(1)2 of O. Reg 856/93, Dr. Kakar has failed to maintain the standard of practice of the profession in his care of patients.

### **Penalty**

#### **Issue #2: What is the appropriate remedy for Dr. Kakar’s misconduct?**

#### **Facts and findings on penalty**

- [6] The parties agreed on parts of the penalty including a reprimand and that Dr. Kakar pay costs. However, while they agreed a suspension of Dr. Kakar’s certificate of registration was appropriate, they disagreed on the duration. The College submitted that the duration should be six months, while Dr. Kakar submitted that the duration should be three months.
- [7] The parties submitted an Agreed Statement of Facts on Penalty. The agreed facts on penalty are summarized below.

- Dr. Kakar was the subject of previous investigations and has appeared before the Discipline Committee twice.
- In June 2009, an investigation into Dr. Kakar's standard of practice, triggered by a public complaint and several anonymous complaints, was resolved with an undertaking that required Dr. Kakar to: practise under the guidance of a clinical supervisor; complete courses in pharmacological monitoring, assessment of suicide, communication skills and record-keeping; attend psychiatric rounds every two months for one year; and undergo a comprehensive practice reassessment.
- In December 2016, the Discipline Committee found that Dr. Kakar had failed to maintain the standard of practice of the profession, engaged in disgraceful, dishonourable or unprofessional conduct and is incompetent. The allegations related to his prescribing medications outside of his scope of practice, his medical record-keeping including the alteration of a record, and the preparation of psychiatric reports for a patient. The Committee ordered a reprimand; a suspension of Dr. Kakar's certificate of registration for six months; the imposition of terms, conditions and limitations on Dr. Kakar's certificate of registration, which included that his practice be restricted to psychiatry only; a restriction to seeing a maximum of 18 patients per day, a requirement that all his third-party reports be approved by a supervisor; clinical supervision; professional education; a reassessment of his practice; and costs.
- In November 2018, the Discipline Committee found that Dr. Kakar committed an act of professional misconduct in that he engaged in an act or omission relevant to the practice of medicine that was disgraceful, dishonourable or unprofessional. This allegation related to Dr. Kakar's deficiencies with his third-party report and record-keeping practices. The penalty included a reprimand, a suspension of Dr. Kakar's certificate of registration for one month, and costs.
- In November 2020, Dr. Kakar entered into an undertaking with the College that he will not prepare any third-party reports.

### Aggravating factors

- [8] The Committee considered the following aggravating factors:
- a. Dr. Kakar has a significant history with the College regarding his preparation of third-party reports among other issues;
  - b. Despite education and supervision, Dr. Kakar has not been able to satisfactorily remediate his preparation of third-party reports which is an important role of a physician.

### Mitigating factors

- [9] The Committee considered the following mitigating factors:
- a. Dr. Kakar has admitted to his misconduct and spared the College the time and expense of longer proceedings;
  - b. Dr. Kakar has demonstrated insight into his deficiencies and voluntarily entered into an undertaking not to write third-party reports in the future.

### Penalty Principles

- [10] The Committee was guided by the well-recognized penalty principles. The first and foremost principle is protection of the public. Further, the penalty must convey the profession's disapproval and denunciation of the misconduct, assure the integrity of the profession, and maintain public confidence in the profession and in the College's ability to regulate the profession in public interest. The penalty should provide specific deterrence to the member and general deterrence to the entire profession. Where appropriate, the penalty should also provide for the rehabilitation of the member. The Committee weighed the above principles, keeping in mind the facts and circumstances of the case, to arrive at its decision on penalty.

### Findings on Penalty

- [11] The Committee considered Dr. Kakar's history with the College, specifically regarding third-party reports. He has undergone formal supervision and has taken communications and record-keeping skills courses but he still has challenges with

preparing objective, well-written third-party reports. This being his third appearance before the Committee about his report writing, it is clear that he is not amenable to remediation in this area of his practice. The Committee is satisfied that Dr. Kakar's entering into an undertaking with the College will prevent him from preparing any future reports. The Committee feels confident that the public will be protected by this undertaking while at the same time recognizing that he is leaving his patients potentially under-served if the need for a report would be required in the future.

[12] The Committee agrees with the parties that a reprimand and the payment of costs should be part of the order. In reaching a decision about duration of suspension, the Committee considered previous cases. Both parties submitted that there were no cases that were the same as Dr. Kakar's. In consideration of Dr. Kakar's recurrent misconduct, the Committee reviewed the cases of *CPSO v. Botros*, 2018 ONCPSD 51 and *CPSO v. Savic*, 2019 ONCPSD 40 which involved physicians who had repeated appearances before the Discipline Committee. Both are distinguished from Dr. Kakar's case in that the Committee found both physicians to have broader, recurring practice deficiencies, but more importantly, both had significant issues with insight into their misconduct, were unprofessional with and defied the College during their processes and therefore were deemed ungovernable. The Committee revoked both physicians' certificates of registration with the College.

[13] The Committee considered the appropriate duration of the suspension for Dr. Kakar. The Committee recognized that Dr. Kakar received a one-month suspension as penalty for poor report preparation at his last appearance before the Committee. In the present case, we ordered a four-month suspension. The Committee believed this to be an appropriate and fair progression relative to his last penalty for similar misconduct. The penalty should serve as a specific deterrent to Dr. Kakar against future misconduct and it should be clear that the Committee takes the recurrence of misconduct seriously. It should also serve as a more general deterrent to the profession. The Committee finds that Dr. Kakar is not amenable to any further remediation and we are satisfied that the undertaking that Dr. Kakar has provided not to prepare any reports in the future will adequately protect the public.

## **Conclusion**

[14] The public and the College expect that physicians should be able to provide accurate and objective third-party reports. Dr. Kakar has demonstrated repeatedly that his reports do not meet the standard of practice and he is not amenable to remediation; therefore, he has undertaken not to provide reports in the future. While Dr. Kakar's reports were interpreted as advocating for his patients, that was not his expected role when writing third-party reports and the lack of objectivity and accuracy of his reports was seriously problematic. Failure to provide objective third-party reports may challenge the public's trust in the profession. The Committee finds that Dr. Kakar's misconduct warrants a significant penalty including a reprimand, and a four-month suspension. We also order that he pay costs to the College as agreed upon between the parties.

## **ORDER**

[15] The Committee issued its order on December 8, 2020 and, following a motion to vary, amended its order on December 14, 2020. The order set out the Committee's finding that Dr. Kakar failed to maintain the standard of practice of the profession in his care of patients, then ordered and directed:

- Dr. Kakar to attend before the panel to be reprimanded.
- The Registrar to suspend Dr. Kakar's certificate of registration for a period of four months, commencing on December 19, 2020.
- Dr. Kakar to pay costs to the College in the amount of \$10,370.00 within 90 days from the date of the Order.

**TEXT of PUBLIC REPRIMAND**  
**Delivered March 17, 2021**  
**in the case of the**  
**COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO**  
**and**  
**DR. RAVI KAKAR**

*This is not an official transcript*

Dr. Kakar:

This Committee is appalled by your repeated findings of professional misconduct. Your long history in front of this Committee and the Inquiries, Complaints and Reports Committee speaks volumes to your disregard for the expectations of the profession.

You have shown a lack of understanding of your professional responsibilities and obligations to third parties. This has resulted in your losing your ability to perform third party medical reports and to having your certificate of registration suspended – again.

In response to prior findings of professional misconduct, you have been required to take educational programs, to practice under a clinical supervisor and to have your certificate of registration suspended, among other orders. Yet, with all of this history, you continue to ignore expectations in the discharge of your responsibilities as a physician. You are a trained psychiatrist and in your actions you have shown serious disregard for your responsibilities to your patients and the public.

This Committee has found that you have committed an act of professional misconduct in that you failed to maintain the standard of practice of the medical profession. This is a serious finding and one for which you must take responsibility. This Committee expects that you will seriously reflect on the misconduct that led to this finding and to your prior history with the College, and take all of the necessary steps to uphold the standards, expectations and integrity of your profession in the future.