

**Indexed as:                    Pinto (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(2)  
of the *Health Professions Procedural Code*,  
being Schedule 2 to 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. MICHAEL ANTHONY PINTO**

**PANEL MEMBERS:**

P. BEECHAM (CHAIR)  
DR. O. KOFMAN  
H. WALKER  
DR. J. MANDEL

Hearing Date:                    February 11, 2004

Decision/ Released Date:      February 11, 2004

## **DECISION AND REASONS FOR DECISION**

The Discipline Committee of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on February 11, 2004. 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. Pinto committed an act of professional misconduct contrary to the provisions of Section 51(1)(a) of the *Health Professions Procedural Code* (the “Code”), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, in that he has been found guilty of an offence that is relevant to his suitability to practise;

### **RESPONSE TO ALLEGATIONS**

At the outset of the hearing, the Notice of Hearing was read. Dr. Pinto admitted the allegations.

### **EVIDENCE**

The following facts which are contained in an Agreed Statement of Fact filed at the hearing, were ready by Counsel for the College:

1. Dr. Michael Anthony Pinto is a forty-nine year old married father of three. He emigrated from India in 1979. Dr. Pinto obtained his primary medical qualification from Bangalore University in India in 1979. He then completed a general rotating internship and one year of medical studies in Moncton, New Brunswick to qualify to practice medicine in Canada. Dr. Pinto then completed one year of paediatric training at McMaster University and a two year fellowship in rheumatology at Queens University Medical School, obtaining his FRCP designation in internal medicine in 1985 and in rheumatology in 1987. Dr. Pinto’s Independent Practice Certificate was issued in 1986 and in 1987 he established a rheumatology practice in Burlington, Ontario.

2. Dr. Pinto's practice was entirely referral-based, with a focus on soft-tissue injuries related to motor vehicle accidents, fibromyalgia and work-place injuries.
3. Dr. Pinto's wife performed administrative and billing functions for his practice.
4. On or about December 5, 2000, Dr. Pinto was charged with one count of fraud over \$5000 with respect to billings submitted to the Workplace Safety Insurance Board ("WSIB") and one count of fraud over \$5000 with respect to billings submitted to the Ontario Health Insurance Plan ("OHIP").
5. Dr. Pinto saw every patient in respect of whom he billed services to OHIP or WSIB and rendered every service for which he billed. However, Dr. Pinto acknowledges that many of the bills he submitted to WSIB should have been submitted to OHIP.
6. Had Dr. Pinto submitted these accounts to OHIP rather than WSIB, he would have been paid less than one hundred cents on the dollar due to the billing thresholds in place during the years 1992 to 2000.
7. Accordingly, Dr. Pinto was convicted of one count of fraud over \$5,000 with respect to billings to WSIB on or about November 13, 2002. No fraud against OHIP was expressly found to have been proven at the trial of this matter (see Tab 1 of Exhibit 2).
8. On May 2, 2003, Dr. Pinto was sentenced to two years incarceration in a federal penitentiary. Additionally, compensation of WSIB was ordered through the forfeiture by Dr. Pinto of his cash bond of \$50,000 and the imposition by the Court of a free-standing restitution order in the amount of \$200,000 (see Tab 2 of Exhibit 2).
9. Dr. Pinto has not been engaged in the practice of medicine since May 2, 2003.
10. Dr. Pinto's entitlement to bill WSIB for medical services provided to patients in respect of injuries caused or exacerbated by workplace conditions was revoked as of November 2002.

Counsel for the College also noted that Dr. Pinto had accepted responsibility and accountability at the outset of these proceedings and has cooperated fully with the College.

## **FINDINGS**

The Committee accepted as true all of the facts set out in the Agreed Statement of Fact. Having regard to these facts, the Committee accepted Dr. Pinto's admission and found that he committed an act of professional misconduct contrary to the provisions of Section 51(1)(a) of the Code in that he has been found guilty of an offence that is relevant to his suitability to practise

## **ORDER AND REASONS FOR PENALTY AND COSTS**

Counsel for the College and counsel for the member made a joint submission regarding penalty.

The Committee was generally satisfied that the penalty proposed by counsel met the needs for general deterrence and provided satisfactory protection to the public and addressed appropriately the necessity for significant sanctions, given the severity of the finding of professional misconduct.

In arriving at its decision, the Committee took into account the information contained in the Victim Impact Statement on behalf of the WSIB which was filed. The Committee also considered the following:

- that Dr. Pinto was cooperative throughout the extensive investigation;
- that Dr. Pinto readily admitted to the allegations;
- that Dr. Pinto has not practiced since May 2, 2003;
- that Dr. Pinto has served a lengthy period of incarceration in a federal institution;  
and
- that Dr. Pinto is prepared to provide restitution to the WSIB.

## **ORDER**

Therefore, the Discipline Committee ordered that:

1. Dr. Pinto attend before the Discipline Committee to be reprimanded.
2. Dr. Pinto's certificate of registration be suspended for a period of 12 months commencing February 11, 2004, six months of which shall be suspended if Dr. Pinto,
  - (a) makes restitution to the WSIB in the amount of \$200,000.00, by making monthly payments to the WSIB in the amount of \$5,000, immediately upon returning to practice, provided the amount of any such monthly payment does not exceed 20% of Dr. Pinto's gross billing for that month, in which case Dr. Pinto will pay to the WSIB 20% of his gross billing for that month; and
  - (b) within six months of the date of this Order, successfully completes, at his own expense, the College's ethics course.
3. In the event that Dr. Pinto fails to comply with the requirements under paragraph 3(a) and (b) above, the suspension of Dr. Pinto's certificate of registration shall resume and continue for the remaining six (6) months.
4. The following terms and conditions are to be placed on Dr. Pinto's certificate of registration:
  - (a) that for a period of two (2) years from his return to practise, Dr. Pinto co-operate with any medical inspector chosen by the College who shall conduct three inspections of Dr. Pinto's OHIP billings and their supporting chart entries for specified codes and periods subsequent to the date of this Order of the inspector's choosing. These inspections shall be conducted approximately six, twelve and twenty four months after his return to practise;

- (b) that the costs of the inspections referred to in paragraph (a) herein be borne by Dr. Pinto; and,
  - (c) that Dr. Pinto hire and retain an arm's-length employee who shall perform all secretarial and billing functions for Dr. Pinto's practice.
5. Dr. Pinto pay costs to the College in the amount of \$2,500 within twelve (12) months of the date of this Order.
6. The results of this proceeding be included in the Register.

At the conclusion of the hearing, Dr. Pinto waived his right of appeal pursuant to s.70 of the Code and the panel administered the reprimand.