

Indexed as: Kadiri (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. YAHAYA ZEKERI KADIRI

PANEL MEMBERS:

**DR. J. WATTS
DR. T. ATTIA (PhD)
DR. M. DAVIE
S. BERI
DR. T. MORIARITY**

**Hearing Date: July 14, 2010
Decision Release Date: July 14, 2010
Release of Written Reasons: September 1, 2010**

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 Wednesday, July 14, 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 ALLEGATION

The Notice of Hearing alleged that Dr. Kadiri committed an act 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 conduct or 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. Kadiri admitted to the allegation of professional misconduct in the Notice of Hearing.

AGREED STATEMENT OF FACTS

The following facts were set out in an Agreed Statement of Facts and Admission that was filed as an exhibit and presented to the Committee:

PART I – FACTS

1. Dr. Yahaya Zekeri Kadiri ("Dr. Kadiri") is a 64-year-old anesthesiologist practising at the Southlake Regional Health Care Centre ("SLRHC").
2. On November 30, 2005, during the course of a procedure, a dispute between Dr. Kadiri and the surgeon arose pertaining to differing opinions as to how to respond to difficulties raising the patient's blood pressure to an acceptable level. As a result of the

dispute, the surgeon left the operating room. Dr. Kadiri followed, attempting to convince the surgeon to return to the operating room.

3. Dr. Kadiri engaged in a shouting match with the surgeon. The shouting match took place outside of the operating room, in front of other people and lasted for several minutes.

4. In April of 2006, the College of Physicians and Surgeons of Ontario received information from SLRHC regarding their concerns about Dr. Kadiri's behaviour described in paragraph 3 above.

PART II – ADMISSION

4. Dr. Kadiri admits that his conduct set out in paragraph 3 amounts to unprofessional conduct as defined under paragraph section 1(1)33 of Ontario Regulation 856/93, made under the Medicine Act, 1991 ("O. Reg. 856/93"), and admits that as a result, he has committed professional misconduct.

FINDING

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts and Admission. Having regard to these facts, the Committee accepted Dr. Kadiri's admission and found that he committed an act of professional misconduct, in that he has engaged in conduct or 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 AND COSTS

Counsel for the College and counsel for the member made a joint submission as to an appropriate penalty and costs order.

The panel considered the agreed statement of facts, its finding, and the submissions of counsel for the College and counsel for Dr. Kadiri, and accepted the joint submission for the following reasons.

The panel accepts that the guiding principles on penalty have been satisfied in the jointly proposed penalty set out below. A penalty should protect the public, express the profession's abhorrence of the misbehaviour and uphold the reputation of the profession, act as a general and specific deterrent and, to the extent necessary, serve to rehabilitate the member.

The panel reviewed and considered the cases submitted regarding the appropriate penalty. While the circumstances were different in each, they were similar enough to demonstrate that the proposed penalty in Dr. Kadiri's case is reasonable, fair and in line with previous cases before the Discipline Committee.

The panel considered and accepts the following as mitigating factors in Dr. Kadiri's case:

- i) Dr. Kadiri has no previous disciplinary findings with the College;
- ii) Dr. Kadiri admitted at an early stage in the proceeding that his conduct was inappropriate and amounts to professional misconduct. This saved the College the time and cost of a lengthy hearing and made it unnecessary for the witnesses to testify.

The law indicates that jointly submitted penalties should be accepted unless to do so would be contrary to the public interest and bring the administration of justice into disrepute. The panel finds that the proposed penalty serves the interests of justice in this case.

The reprimand expresses the profession's disapproval of Dr. Kadiri's behaviour and serves as a specific deterrent for him. The requirement to complete a College approved communications course will serve to rehabilitate Dr. Kadiri and protect the public.

Having the results of the proceeding included in the register will serve to assure the public and the profession that these matters are taken seriously. Costs payable to the College will partially compensate the College for the cost of the one day hearing.

The panel recognizes that this incident does appear to have occurred suddenly, was not premeditated or preconceived and the behaviour was not directed at a patient or a patient's family. That in no way excuses Dr. Kadiri's actions. It is always expected in a professional context that physicians will behave respectfully and courteously to all with whom they come in contact. To behave in the fashion in which Dr. Kadiri behaved in front of others not only creates embarrassment but risks impairing the team relationship that is crucial to the proper function of an operating room and may put patients at risk. An anesthetist must be particularly aware of and responsible for this. For these reasons, the panel views Dr. Kadiri's behaviour as a serious breach of his responsibility.

ORDER

Therefore, the Committee ordered and directed that:

1. The Registrar impose the following term, condition and limitation on Dr. Kadiri's certificate of registration:
 - i) Dr. Kadiri shall successfully complete, at his own expense, a College approved Communications Course and shall provide proof thereof to the College. This term, condition and limitation shall remain in place until Dr. Kadiri has provided satisfactory proof to the College of his successful completion of the approved Communications Course.
2. Dr. Kadiri appear before the panel to be reprimanded.
3. Dr. Kadiri pay to the College costs in the amount of \$3650 within 6 months of the date of this Order.
4. The results of this proceeding be included in the register.

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