ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Citation: *College of Physicians and Surgeons of Ontario v. Ola,* 2025 ONPSDT 22
Date: August 21, 2025
Tribunal File No.: 23-023

BETWEEN:

College of Physicians and Surgeons of Ontario

College

- and -

Foluso Ayomitunde Olusegun Ola

Registrant

FINDING REASONS

Heard: May 26-28 and June 5, 2025, by videoconference

Panel:
Sophie Martel (panel chair)
Lucy Becker (public)
Stephen Hucker (physician)
Linda Robbins (public)
Janet van Vlymen (physician)

Appearances:
Sayran Sulevani and Ada Jeffrey, for the College
Andrew Matheson and Marc Flisfeder, for the registrant

RESTRICTION ON PUBLICATION

Pursuant to Rule 2.2.2 of the HPDT Rules of Procedure and ss. 45-47 of the Health Professions Procedural Code, no one shall publish or broadcast the names of patients or any information that could identify patients or disclose patients' personal health information or health records referred to at a hearing or in any documents filed with the Tribunal. There may be significant fines for breaching this restriction.

Introduction

[1] The College of Physicians and Surgeons of Ontario (College) alleges that Dr. Ola committed professional misconduct by failing to maintain the standard of practice of the profession and by engaging in disgraceful, dishonourable or unprofessional conduct. While the Notice of Hearing also alleges that Dr. Ola is incompetent, the College withdrew this allegation prior to making its final submissions.

[2] The alleged professional misconduct mostly involves boundary issues and Ontario Health Insurance Plan (OHIP) billing issues. The College submits that Dr. Ola inappropriately billed OHIP in multiple ways: by providing and billing for services that were not clinically indicated, by misusing OHIP fee codes, and by billing for services that were not rendered. The College further submits that Dr. Ola's inappropriate OHIP claims were deliberate in order to inflate his OHIP billings.

[3] Dr. Ola acknowledges most of the facts related to the boundary issues. He also acknowledges that his approach to providing point-of-care tests and services did not meet the standard of practice of the profession because he ordered tests and provided services that were not in accordance with OHIP billing requirements. Dr. Ola also does not dispute the opinions of Dr. Karen Ferguson, an expert retained by the College. However, Dr. Ola denies billing for services not rendered and denies that he deliberately overbilled OHIP.

[4] We conclude that the College has proven the allegations against Dr. Ola and find that he failed to maintain the standard of practice of the profession and engaged in disgraceful, dishonourable or unprofessional conduct. Dr. Ola engaged in boundary violations with three patients. He also knowingly and inappropriately overbilled OHIP. He did this by billing for services that he did not render, by billing for services that were not clinically indicated, and by billing for services that he knew did not meet the criteria in the OHIP Schedule of Benefits. The overbilling was large in volume and in scope, involving multiple different fee codes and hundreds of thousands of dollars. Contrary to Dr. Ola's assertion, we conclude that the overbilling was not part of Dr. Ola's alleged preventative and comprehensive approach to medicine but rather, was deliberately done to inflate his OHIP payments. These are our reasons.

Background

[5] Dr. Ola completed medical school in Nigeria where he also practised medicine for about eight years. He then moved to Canada and over time, completed his Canadian medical qualification examinations. He practised medicine in Newfoundland at a hospital and at a family medicine practice for about four years until he moved to Ontario in 2005. He opened a solo family medicine practice in Southern Ontario in 2005 where he continues to practise family medicine. His spouse is the office manager of the practice. In addition to his spouse, Dr. Ola has employed two to four administrative staff, depending on the years. Dr. Ola also works in the emergency department of his local hospital.

[6] The allegations before us result from a public complaint and a Registrar's investigation. The public complaint involves Patient A and her two children, Patients B and C. Among her concerns, Patient A complained that Dr. Ola was very affectionate and too familiar, and that he made her and her daughters undergo unnecessary tests.

[7] The Registrar's investigation began after the College received a letter from the Ministry of Health (Ministry) dated August 13, 2021, following an audit of Dr. Ola's medical records. In its correspondence, the Ministry identified several areas of concern with respect to Dr. Ola including deficiencies in his record keeping, the absence of medical necessity for several point-of-care tests, and unnecessary or inappropriate ear syringing. As part of its investigation, the College obtained clinical records for the 32 patient charts identified by the Ministry. The College also obtained from the Ministry Dr. Ola's OHIP billing data for the years 2016 to 2021, as well as a peer ranking comparison of Dr. Ola's billing frequency for some of the fee codes. The billing allegations concern the period from January 1, 2016, to October 19, 2021, the timeframe of the OHIP data provided to the College.

[8] The College retained Dr. Karen Ferguson, a physician specializing in family medicine, who currently practises in a Family Health Team in Eastern Ontario. She provided reports in respect of both investigations. She was first retained to provide an opinion regarding Dr. Ola's care of Patients A, B, and C. She provided her opinion in a report dated March 10, 2022. Her addendum report of October 27, 2022, rendered after reviewing Dr. Ola's response to her March report, did not change her opinion.

[9] In March 2022 (after submitting her first report regarding Patients A, B and C), Dr. Ferguson was provided with the details of the Registrar's investigation and relevant clinical records. She conducted an interview with Dr. Ola as part of her assessment. She provided her opinion relating to the Registrar's investigation in a report dated June 13, 2022. Her addendum report of February 1, 2023, after reviewing Dr. Ola's response to her October report, did not change her opinion. At the hearing, Dr. Ferguson was qualified to provide opinion evidence in family medicine and OHIP billings for family physicians. As indicated earlier, Dr. Ola does not contest Dr. Ferguson's opinions.

[10] As a result of Dr. Ola's admissions, the hearing proceeded with much of the evidence being tendered by way of affidavit, cross-examinations of some of the witnesses, and other documentary evidence. The manner of proceeding is outlined in the case management directions and in *College of Physicians and Surgeons of Ontario v. Ola*, 2025 ONPSDT 12. We thank counsel for both parties for their roles in the efficient hearing of this case.

[11] We had sworn affidavit evidence from the following witnesses:

- Patient A;
- Chloe Macrae, Program Manager of the Benefits and Payment Policy Unit in the division that administers OHIP at the Ministry of Health;
- Chris Wanek, the Canadian representative of NeuroMetrix, which manufacturers the DPNCheck (Diabetic Peripheral Neuropathy Check) machine;
- Thomas Musters, a lead investigator with Computer Forensics Inc., a company specialising in digital forensics and investigations;
- Dr. Karen Ferguson, the expert in family medicine retained by the College;
- Mark Bellefontaine, the College investigator assigned to the investigations;
- Dr. Foluso Ayomitude Olusegun Ola, the registrant;
- Abiodun Ola, Dr. Ola's spouse and the office manager of his clinic; and

- Dr. Neil Vivek Rau, a specialist in internal medicine and medical microbiology, retained by Dr. Ola to provide an opinion on the reprocessing of curettes and ear wash tips.

[12] Mr. Wanek, Dr. Ferguson, Mr. Bellefontaine, Dr. Ola and Mrs. Ola also provided oral testimony in direct and/or cross-examination.

Standard of Proof

[13] The College bears the onus of proof, on a balance of probabilities, based on clear, convincing and cogent evidence.

Boundary Violations

[14] There is little dispute involving this allegation. Patient A was a patient of Dr. Ola from 2005 to 2021. Patient A's daughters (Patients B and C) were also patients of Dr. Ola between 2014 and 2021 while they were 10 to 16 and 12 to 19 years old, respectively. Patient A complained that Dr. Ola was overly affectionate with her and her daughters, which made her uncomfortable. She was also uncomfortable with having her daughters see Dr. Ola alone because of his conduct towards her, so she attended Dr. Ola's appointments with Patients B and C.

[15] Dr. Ola agrees that he did not maintain appropriate professional boundaries by hugging patient A, by making comments to Patients A, B and C about their appearances, and by giving Patient C $20 as a gift. In his written response to these allegations, which he adopted in his affidavit, Dr. Ola explained that hugs were greetings just like a handshake but that that he had ceased this practice after reviewing the College's resources on boundary violations. He explained that he complimented Patients A, B, and C as a way of providing positive feedback for staying fit. While the comments were meant to be kind and caring, he was sorry that the compliments were disconcerting and indicated that he would no longer make such comments. He gave Patient C the $20 gift upon being told that she had won the athlete of the year award. He gave the gift as a gesture of appreciation for her efforts. Dr. Ola denies the evidence found in Patient A's affidavit that he held or stroked the hands of patients B and C. He also denies any sexual intent regarding his conduct.

[16] Dr. Ferguson opined that the behaviours complained of were boundary violations that made Patients A, B and C uncomfortable. She also opined that Dr. Ola's intent did

not appear to have been deliberately sexual or deliberately inappropriate based on the information provided by Patient A and by Dr. Ola. She indicated that Dr. Ola demonstrated insight in realizing that his behaviour was not appropriate.

[17] The only factual dispute is whether Dr. Ola held or stroked the hands of Patients B and C. While we have concerns about Dr. Ola's overall testimony (as discussed later in these reasons), we were unable to assess the credibility of Patient A regarding her affidavit evidence that Dr. Ola held or stroked the hands of her daughters. We are not criticizing the College for not calling Patient A as a witness, since the reliance on her affidavit and Dr. Ola's admission made this unnecessary for the most part and avoided having her testify at the hearing. Given the factual dispute and the fact that Patient A did not testify, we find that the evidence is not sufficiently clear and convincing for us to make a finding that Dr. Ola held or stroked the hands of Patients B and C. For example, no details were provided about the context, frequency, and nature of the touching. In any event, the absence of this factual finding does not change our overall conclusion that Dr. Ola engaged in boundary violations. Boundary violations, even in the absence of sexual intent, constitute disgraceful, dishonourable or unprofessional conduct.

OHIP Billing Issues

[18] The Schedule of Benefits is a public document that lists all physician services that are insured by OHIP, the fees paid, the eligibility and the criteria for the correct billing of the services. It is periodically updated.

[19] The College submits that Dr. Ola inappropriately billed OHIP in multiple ways: by providing and billing for services that were not clinically indicated, by misusing OHIP fee codes, and by billing for services that were not rendered. Most of the allegations arise out of the Registrar's investigation but there are also similar allegations relating to Patients A, B and C. We outline Dr. Ola's general defence to the allegations, the allegations specific to Patients A, B and C, and the allegations arising out of the Registrar's investigation, which we address billing code by billing code. We set out our factual conclusions regarding each code. At the end of this section, we also set out our overall conclusion as to whether Dr. Ola knowingly and deliberately overbilled OHIP.

Dr. Ola's general defence

[20] Dr. Ola denies that he billed for services not rendered. He does not dispute that he provided and/or billed OHIP for services not clinically indicated. Dr. Ola explained that he believed that there was a comprehensive care justification to the approach he took to patient care with respect to point-of-care tests and services. He explained that his medical education and training in Nigeria focused on a comprehensive and preventative model of care, which is different than a reactive model of care. This approach proactively encourages health by preventing disease and conditions before they take hold or advance. Rather than only responding to symptoms and crises, the approach anticipates and mitigates risk through education, regular screening and life-style interventions. Diagnoses made by preventive screening allow patients to receive timely, and potentially life-saving interventions.

[21] Dr. Ola also professes misunderstanding the Schedule of Benefits in cases where he inappropriately used certain OHIP billing codes. He denies that he knew that his billings did not meet the OHIP Schedule of Benefits criteria.

Patients A, B and C

[22] In addition to the boundary violations, Patient A complained that Dr. Ola unnecessarily required her and her daughters to provide a urine sample at each visit and to undergo unnecessary tests. In her affidavit, Patient A indicated that she found the number of tests inconvenient, as they were scheduled on separate days and she needed to take time off work to complete them.

[23] Dr. Ferguson reviewed Dr. Ola's billings and encounter notes for Patients A, B and C since 2011. She reported several concerns relating to many investigations that were not medically indicated. These included:

- Dr. Ola billed for 19 pulmonary function tests for the three patients, none of whom had a documented chronic respiratory condition or persistent respiratory symptoms. The pulmonary function tests results were not always in the charts.

- Dr. Ola billed for ear syringing twice for Patient A, four times for Patient B and once for Patient C. In most cases, these were based on visualizing

wax in the external canal but with no documented patient complaints of ear symptoms.

- For Patient A, he billed for two sets of nerve conduction studies, technical and interpretation fees for four electrocardiograms, and one ankle-brachial index test. There was no evidence of symptoms or risk factors for disease for any of this testing.

- For Patient A, he billed for seven urinalysis and five urine drug screens.

- For Patient B, he billed for six urinalysis, six urine pregnancy tests and nine urine drug tests.

[24] Dr. Ferguson reported that Dr. Ola did not document his rationale for ordering most of these investigations in his encounter notes.

[25] Dr. Ola does not contest Dr. Ferguson's opinion.

[26] In conclusion, Dr. Ola billed for multiple services not clinically indicated for Patients A, B and C.

Primary mental health care (K005, K013, K082)

[27] Dr. Ola submitted multiple claims for primary mental health care. Most of his claims were under the K005 billing code, which is the fee code for individual care for primarily mental health. It is defined in the Schedule as "services encompassing any combination or form of assessment and treatment by a physician for mental illness, behavioural maladaptations, and/or other problems that are assumed to be of an emotional nature, where there is consideration of the patients' biological and psychosocial functioning."

[28] In calculating the time units, the minimum time required in direct contact with the patient is as follows: one unit requires 20 minutes minimum time with the patient; two units requires 46 minutes minimum time with the patient; three units requires 76 minutes minimum time with the patient, and four units requires 106 minutes minimum time with the patient. The time units must be calculated based upon consecutive time spent rendering the mental health care service. The physician must record on the patient's chart the time when the insured service started and ended. Furthermore, primary mental

health care rendered the same day as a consultation or other assessment by the same physician to the same patient is not eligible for payment unless there are clearly defined diagnoses for the two services.

[29] Dr. Ola also claimed the K013 code, which is a counselling code, which applies to a visit of one or more people dedicated solely to an educational dialogue with a physician, and the K082 code, which was a temporary virtual health care for primary mental health care or counselling.

[30] Mr. Bellefontaine did an in-depth analysis of Dr. Ola's K code usage. From January 1, 2016, to October 19, 2021, Dr. Ola made the following claims and was paid the following amounts:

Fee Code	Fee Code Description	# of Claims	Amt Paid
K005	Individual care per ½ hour	26,179	$2,026,261.64
K013	Counselling one or more people per ½ hr	48	$3,422.16
K082	H1N1-tel psych care counselling or interview per ½ hr	785	$73,200.02
Total		27,012	$2,103,883.82

[31] As reported by Dr. Ferguson, Dr. Ola billed a primary mental health care code alongside most of his assessment codes. There are different assessment codes depending on whether the assessment is a general assessment (A003), an intermediate assessment (A007) or a minor assessment (A001). A general assessment requires a full history and examination of all body parts and systems, a minor assessment includes a brief history of the affected part or regions or is related to a mental or emotional disorder, and an intermediate assessment requires a more extensive examination than a minor assessment. The Schedule of Benefits assessment definitions specifically reference mental or emotional disorders as being included in the intermediate and minor assessment codes. Dr. Ferguson estimated that an intermediate assessment generally takes 10 to 15 minutes to satisfy the billing criteria.

[32] The evidence from the Ministry shows that between 2016 and 2021, Dr. Ola billed a mental health code for the same patient on the same service date between 77 and

85% of the time that he billed an assessment code. Mr. Bellefontaine also examined this percentage slightly differently by instead looking at the number of mental health encounters as the denominator, i.e. how often Dr. Ola billed the assessment code when a mental health code was billed. The data indicates that between 2016 and 2021, Dr. Ola billed an assessment code for the same patient on the same service date between 88% and 98% of the time that he billed a mental health code. In other words, almost every time Dr. Ola billed a mental health code, he also billed an assessment code.

[33] According to Mr. Bellefontaine's analysis of the OHIP data, there were 37 dates between January 1, 2016,and October 19, 2021, when Dr. Ola billed between 10 and 10.9 hours of primary mental health or counselling care, 248 dates when he billed between 9 and 9.9 hours of primary mental health care or counselling care, and 348 dates when he billed between 8.0 and 8.9 hours of primary mental health care or counselling care. This analysis does not include the time spent providing other services to patients on the same dates, including assessments. It also does not include any breaks. In other words, on 37 days, Dr. Ola would have spent 10 to 10.9 hours back-to-back with no breaks - just providing primary mental health care.

[34] Dr. Ferguson reported that while Dr. Ola typically documented two separate encounter notes when he billed a primary mental health code and an assessment code, the primary mental health care component was often a discussion about sleep, the patient's family member or work stress. She added that these might warrant a K005 code on some occasions but not at most visits, which was Dr. Ola's practice. She explained that it is common for patients in family medicine to discuss more than one concern at an encounter. While such concerns often include mental health issues, the mental health and physical health concerns are not billed as two separate visits but rather, are billed as part of the assessment code.

[35] Dr. Ola does not dispute that he regularly billed the primary mental health code on the same date and for the same patient as an assessment code. Dr. Ola explained that he used a patient-centred approach where he listened to patients who often discussed mental health and physical conditions, which were often impossible to separate. He was following family medicine teachings of attending to more than one issue during a visit, by listening to patient cues and following up.

[36] In cross-examination, Dr. Ola was asked questions regarding specific dates when, according to his billing information, he would have had to work 17 to 18 hours without breaks in order to render the care associated with the assessment and primary mental heath codes. In response, Dr. Ola admitted to running the clock concurrently for assessments and primary mental health services.

[37] In conclusion, Dr. Ola inappropriately billed OHIP for primary mental health care. He did not spend the required minimum time on primary mental health care. Rather, he combined this time with the time he spent with the patient on other concerns. In other words, he billed OHIP twice for the same thing. Furthermore, given the number of days Dr. Ola's billings for primary mental health care exceeded the equivalent of eight or more hours per day (633 days in just under six years), it is highly unlikely that Dr. Ola spent that amount of time, even when he ran the clock concurrently as between assessments and primary mental health care. He would have had to spend most days seeing patients back-to-back without breaks and without providing any other care, such as the care he claims to have provided by billing other codes, detailed in subsequent sections.

Spirometry (J301, J304, J324, J327)

[38] There are several issues relating to Dr. Ola's performance of pulmonary function tests. He performed pulmonary function tests in the absence of any respiratory symptoms and his billing service date did not always correspond to the date on which he rendered the service.

[39] The evidence from Dr. Ferguson and Ms. Macrae explains the different tests and codes. Simple spirometry (J301) is a pulmonary function test that measures airflow from a patient's lungs over time during a forced expiratory manoeuvre. The J324 code refers to a repeat spirometry test performed on the same day, following the administration of a bronchodilator. A flow volume loop study (J304) measures lung volume against airflow. The J327 code is the corresponding post-bronchodilator test. There are technical and professional components to the fee codes. For example, J301B and J301C are the technical and professional fee codes for simple spirometry and J304B and J304C are the technical and professional fee codes for the flow volume loop study. Fee codes J301 and J304 are not eligible for payment on the same day for the same patients. Ms. Macrae and Dr. Ferguson explained the reasoning for this: payment for flow-volume loop studies (J304 and J327) includes payment for all elements of the simple spirometry services

(J301 and J324) plus the additional elements of the flow volume loop study. In other words, it is duplicative to perform simple spirometry when a flow-volume loop study is also being performed.

[40] According to Dr. Ferguson, Dr. Ola performed an extremely large number of pulmonary function tests, often in patients with no documented respiratory symptoms or chronic respiratory condition. Dr. Ola does not dispute this.

[41] According to Mr. Bellefontaine's review of the overall OHIP billing data, Dr. Ola submitted 5,197 claims for the J301B code and 5,196 claims for the J301C code in the years 2016-2020. He ranked 1st or 2nd among Ontario physicians during these years. There were similar numbers and rankings for his claims regarding the J324B and J324C codes. Dr. Ola stopped performing pulmonary function tests around 2021.

[42] The other issue is that Dr. Ola performed two sets of pulmonary function tests (simple spirometry and flow-volume test) on the same date for the same patient but billed the J301 and J304 codes on separate dates. As noted earlier, according to the Schedule of Benefits, the J301 and J304 codes are not eligible for payment on the same date for the same patient.

[43] Dr. Ola does not dispute performing pulmonary function tests for both sets of codes (J301 and J304) on a single date while billing them on separate dates. Dr. Ola explained that he billed the codes on different dates because he believed that he could bill one code on the date that he administered the test and the other code on the date that he reviewed and interpreted the results. We do not accept this explanation as we note that Dr. Ola did not bill the J301B and J301C codes on different dates, which would reflect his testimony. Rather, he billed the J301B and J301C (the technical and professional codes for simple spirometry) on one date and the J304B and J301C (the technical and professional codes for flow volume loop study) on another date. He did not bill the two technical codes on one date and the two professional codes on another date. It appears instead that Dr. Ola billed the simple spirometry and the flow-volume test on different dates because he knew they were not eligible for payment on the same date for the same patient even though he performed the services on the same date.

[44] As found in Ms. Macrae's affidavit, according to the legal requirements under Regulation 552 of the *Health Insurance Act*, RSO 1990, c. H.6, when making a claim for payment for a service rendered, a physician must include the accurate date the service

was rendered. In the case of the technical component of a pulmonary function study, the date on the OHIP claim must reflect the date on which the test was administered to the patient.

[45] In conclusion, Dr. Ola inappropriately billed OHIP for pulmonary function tests that were not clinically indicated. He also inappropriately billed OHIP by performing two sets of pulmonary function tests (simple spirometry and flow-volume test) on the same date for the same patient. Furthermore, he inappropriately billed OHIP by submitting claims that did not accurately reflect the date on which the service was provided.

Urinalysis, urine drug screens and urine pregnancy tests (G010, G040, G005)

[46] Dr. Ola billed for many urine tests: urinalysis (G010), urine drug screens (G040) and urine pregnancy tests (G005).

[47] Dr. Ferguson reported that for most patients, urinalyses were performed at almost every encounter and without any documented urinary symptoms. Dr. Ola made 20,217 clams for urinalysis in the six-year period and was ranked in the top 150 of Ontario physicians who billed this code in 2016, 2017 and 2018.

[48] Dr. Ola also billed for performing urine drug screens. He submitted 18,561 claims for urine drug screens in the six-year period.

[49] Dr. Ferguson reported that most of the patients for whom he performed drug screens did not have a history of substance use and were not prescribed controlled substances on a chronic basis. As an example, she reported that Dr. Ola performed three urine drug screens for a child who was younger than three years old.

[50] At the hearing, Dr. Ola testified that part of his comprehensive care approach means looking at the society and environment patients are living in. He saw many patients with drug problems as part of his hospital work and felt that doing drug screens was part of his comprehensive care approach of keeping people “in check.” He explained that he performed drugs screens on the child patient at the request of the parents, who were accusing each other of giving their child drugs. Dr. Ola testified that he did not document these accusations as he knew the family and was trying to help them. We do not accept Dr. Ola’s explanation as to why he performed the drug tests on the young child. It is not reasonable to accept that Dr. Ola was conducting a drug test based on

what amounts to child abuse allegations without documenting or reporting such allegations.

[51] Dr. Ferguson reported that Dr. Ola frequently billed for urine pregnancy tests without any documented indication for them. As an example, she reported that Dr. Ola billed for six urine pregnancy tests for a patient who had had a tubal litigation. At the hearing, Dr. Ferguson testified that tubal ligation is one of the most effective means of contraception with an extremely low risk of pregnancy. Of note, the Schedule of Benefits was revised effective October 2019 to add that urine pregnancy tests are only insured when an immediate determination of pregnancy is required to prevent imminent physical harm to the patient. Dr. Ola appears to have been aware of this new prerequisite as his claims for urine pregnancy tests significantly decreased in 2020 and 2021 (4 and 19 claims respectively) as compared with the years 2016 to 2019 when he made between 136 and 403 claims per year.

[52] In conclusion, Dr. Ola inappropriately provided and billed for urine tests that were not clinically indicated, a conclusion that he does not dispute.

Electrocardiograms (G310 and G313) and ankle-brachial index (G517)

[53] Dr. Ola also performed and billed for electrocardiograms and ankle-brachial index testing, a blood flow study. In the relevant six-year period, Dr. Ola made over 2,000 claims for ankle-brachial testing and over 4,100 claims for the technical and professional components related to electrocardiograms.

[54] According to Dr. Ferguson, Dr. Ola performed these tests on multiple occasions for most patients, often with no medical indication for performing them. In several cases, the patients were young and healthy with no chronic medical conditions or symptoms to warrant performing these tests. Dr. Ola does not dispute this. Of note, the Schedule of Benefits specifically states that, “G310 and G313 are *not eligible for payment* when rendered to a patient who does not have symptoms, signs or an indication supported by current clinical practice guidelines relevant to the individual patient’s circumstances” (emphasis in original).

[55] In conclusion, Dr. Ola inappropriately provided and billed OHIP for ankle-brachial index and electrocardiogram services when such tests were not clinically indicated, a conclusion that he does not dispute.

The special visit/after-hours premium code (A994)

[56] The evidence from Ms. Macrae is that the special visit premium code is for situations when a physician makes a special visit after 17:00 to open their otherwise closed office to see a patient. The special visit premium is not eligible for payment for services rendered in a physician's office that is already open for the purpose of diagnosing or treating patients. It may only be billed for the first person seen.

[57] Dr. Ferguson reported that Dr. Ola billed the special visit premium code on several occasions when the encounter appeared to be a regularly booked appointment that took place after 17:00. Dr. Ola confirmed in his interview with Dr. Ferguson and in his testimony at the hearing that he believed that he could bill the code for the first patient seen after 17:00, even if he was already at the office seeing other patients before 17:00. During the relevant time, Dr. Ola's office was open 9:00 to 19:00 on Monday and Tuesday, 9:00 to 14:30 on Wednesday, 10:30 to 20:00 on Thursday, and 9:00 to 15:30 on Friday. Dr. Ola was a frequent biller of this code (for a total of $45,240 over the review period) given that his office was open past 17:00, three days per week.

[58] In conclusion, Dr. Ola inappropriately billed the special visit premium code by claiming the code in circumstances where he was not making a special visit to open his office to see patients.

Wound debridement (Z080)

[59] Dr. Ferguson reported that Dr. Ola billed for wound debridement on several occasions when his encounter notes only indicated that he changed a dressing or superficially cleansed a wound with no actual debridement. She opined that this does not meet the billing code's criteria which require a "debridement of wound(s) and/or ulcer(s) extending into the subcutaneous tissues" with a minimum of 10 minutes of debridement which must be "rendered personally by the physician." In her testimony, Dr. Ferguson added that wound debridement is more typically done in a wound clinic than a primary care clinic. She testified that there is no separate code for a dressing change and that it would be considered part of an assessment visit.

[60] Dr. Ola acknowledged that he used the wound debridement fee code for wound care and dressing changes because this was his understanding until OHIP advised him in 2021 that it was improper.

[61] In conclusion, Dr. Ola inappropriately billed the wound debridement code for situations where he only performed wound care and dressing changes without debridement.

Prostatic massage (G476)

[62] Dr. Ferguson reported that Dr. Ola billed the prostatic massage code on several occasions (for seven different patients) when his encounter notes only indicated that he examined the prostate as part of a periodic health examination with no actual prostatic massage performed.

[63] In her testimony Dr. Ferguson explained the prostatic massage procedure. She testified that it is done extremely rarely for the purpose of determining if there is an infection of the prostate. A urine sample is taken before the prostate massage, followed by the prostate massage performed through the rectum, followed by another urine sample taken after the examination. A prostate examination, on the other hand, where a physician examines the size of the prostate and checks for nodules is considered to be part of a general assessment. There is no separate fee code for a prostate examination.

[64] Dr. Ola testified that he believed that he could bill the prostatic massage fee code when he conducted a digital rectal examination of the prostate, although now understands that he misunderstood the billing code.

[65] In conclusion, Dr. Ola inappropriately claimed the prostatic massage fee code for prostate examinations.

Injection of bursa, ganglion or tendon sheath (G370)

[66] Dr. Ferguson reported that Dr. Ola billed the code for injection of the bursa, joint, ganglion or tendon sheath when he provided subcutaneous denosumab injections for osteoporosis, which should be billed at the lower paying code of G372 instead. She noted that Dr. Ola improperly billed this code 12 times for one of the patients and six times for another patient.

[67] The fee difference between the codes is considerable. For example, in the 2016 Schedule of Benefits, the fee for the G370 code was $20.25 whereas the fee for the G372 code was $3.89 to $6.75 depending on whether the injection occurred with a visit or was the sole reason for the visit. Dr. Ferguson testified that subcutaneous injections

are much simpler injections that do not require as much landmarking and can at times be delegated. Bursa injections, on the other hand, are typically done by the physician.

[68] Dr. Ola acknowledged that while he billed the code properly for bursa injections, he incorrectly did so for other injections, as described by Dr. Ferguson.

[69] In conclusion, Dr. Ola inappropriately billed the bursa injection code for subcutaneous injections.

Removal of foreign body under local anesthetic (Z114)

[70] Dr. Ferguson reported that Dr. Ola billed the code for removal of a foreign body under local anesthetic when he simply removed sutures. Suture removal, however, does not qualify for this billing code. She testified that removal of a foreign body code is typically intended for the removal of glass, metal or a large splinter, which requires the injection of a local anesthetic for the removal. He wrongfully billed this code for at least two patients. Dr. Ola does not dispute Dr. Ferguson's opinion.

[71] In conclusion, Dr. Ola inappropriately billed OHIP by claiming the removal of a foreign body code when all he did was remove sutures.

Ear syringing/curetting (G420)

[72] Ear syringing and curetting are procedures used to remove wax from the ear canal. Ear syringing removes the wax with a stream of water whereas ear curetting does so with an instrument called a curette. Dr. Ferguson testified that this procedure is usually done when there are complaints of hearing loss and discomfort and where the examination reveals ear wax that completely blocks the canal.

[73] The Schedule of Benefits fee code for this procedure is G420. It is defined as "ear syringing and/or extensive curetting or debridement unilateral or bilateral." In the 2019, 2020 and 2021 Schedule of Benefits, the Ministry added that G420 is only insured when, "a) there is impacted ear wax resulting in hearing loss that is unresponsive to topical application of cerumenolytics; or b) immediate removal of ear wax is medically necessary to visualize the tympanic membrane or the external ear canal for diagnostic and/or therapeutic purposes."

[74] There are two allegations relating to Dr. Ola's billing for syringing and curetting. First, he provided the service when it was not clinically indicated and second, he billed OHIP for the service despite not actually performing it. In support of this second allegation, the College relies in part on a shortfall of supplies relative to the number of OHIP syringing and curetting claims made by Dr. Ola.

Frequency of syringing/curetting claims

[75] In Dr. Ferguson's report of June 13, 2022, she noted frequent billing for syringing/curetting of patients' ears. She also reported that there was no chart documentation of any symptoms, other than "ear canal debris" and no documentation of the results of the ear syringing or curetting.

[76] According to the billing data received from the Ministry, Dr. Ola billed the fee code for ear syringing/curetting 7,154 times from January 1, 2016, to October 19, 2021. Most of this billing occurred in 2016, 2017, 2018 and 2019. Dr. Ola billed this code only 267 times in 2020 and 2021. As compared with his peers, Dr. Ola ranked in the top three billers for this code for each of the years 2016, 2017, 2018 and 2019.

[77] Dr. Ola testified that he performed ear syringing or curetting when patients complained of hearing loss or pain or, if he noticed significant ear wax in the ear canal and the patient wanted him to remove it. He acknowledged that at times he performed this procedure when there was not a complete wax blockage of the ear canal. He changed his practice around 2019 when the Schedule of Benefits changed.

[78] At the hearing, Dr. Ferguson also provided testimony about the frequency of this billing code for two particular patients among the 32 patient charts she reviewed. Dr. Ola's billing information indicated that for one patient, he had charged the G420 code 32 times between 2016 and 2021, often charging the code monthly. Dr. Ferguson testified that it takes time for wax to build up to the point of blocking the ear canal. While some patients are more prone to wax build up, such patients might come in for the procedure every six to eight months or every year. Dr. Ola's explanation was that the patient suffered from psoriasis, which affected the ear canal and that the patient benefited from curetting and syringing. Dr. Ferguson, on the other hand, testified that psoriasis in the ear canal causes discomfort more than wax build up and that neither curetting nor syringing is indicated for psoriasis.

[79] In another case, Dr. Ola had billed the syringing/curetting code seven times in one year beginning when the patient was younger than two years old. Dr. Ferguson testified that most young children do not tolerate having their ears syringed because it is uncomfortable to have water flushed in their ears. While curetting might be attempted, Dr. Ferguson opined that this would only occur if a parent can adequately hold the child because there is a possibility of the curette perforating the eardrum if a toddler is moving around.

The alleged supply shortfall

[80] Dr. Ola testified that he did both ear syringing and curetting. He generally preferred to first try curetting although some patients preferred the ear syringe. For ear syringing, he used the Welch Allyn Ear Wash, which requires disposable ear tips. For curetting, he used two types of curettes: non-lighted Miltex curettes and lighted Bionix ear curettes, which he preferred. The syringing ear tips and the curettes are labelled as either disposable or single use.

[81] After having obtained summonsed information from medical suppliers identified by Dr. Ola, Mr. Bellefontaine compared the number of claims made for syringing and curetting with the number of supplies obtained by Dr. Ola. The evidence initially indicated that while Dr. Ola allegedly performed ear syringing/curetting 7,154 times from January 1, 2016, to October 19, 2021, he only purchased 2,675 supplies (curettes and ear tips), resulting in a deficit of 4,479 supplies. Even though the point-of-care tests covered the period from January 1, 2016 to October 19, 2021, Mr. Bellefontaine obtained supply information from January 1, 2015 onward.

[82] After being advised of this deficit, on October 19, 2023, through his counsel, Dr. Ola advised that his practice was to order supplies in bulk. As a result, he located and submitted invoices for additional supplies purchased between November 2013 and November 2014, supporting a total of 1,200 additional supplies. If these additional supplies are included in the analysis, the supply deficit is at 3,279.

[83] Dr. Ola does not dispute the College investigator's tally in respect of the supply records for point-of-care services he was able to locate and provide to the College. He denies, however, billing for services not rendered.

[84] Dr. Ola's explanation, which he first provided to the College in August 2024, after the investigation had ended and the matter was referred to discipline, is that he and his wife reprocessed ear tips and ear curettes. Dr. Ola explained that with respect to ear syringing, the ear tip broke as soon as you removed it, such that he would require a new one for the next patient seen. However, Dr. Ola testified that he sometimes had time at the end of the day to rinse the ear wash system with the ear tip on it to be able to reuse it.

[85] In respect of the ear curettes, Dr. Ola explained that because the lighted curettes were made of a breakable polycarbonate plastic, he did not put them in the garbage. Rather, he kept them in a box on a top shelf.

[86] Dr. Ola also explained that his wife, as the office manager, was responsible for supplies. While he could not recall when, he recalled that at one point, she told him that she was having difficulty obtaining the lighted curettes, which he preferred. She also said that a sales representative had advised her that it was possible to reprocess the curettes. After doing his own research on the feasibility and safety of reprocessing, Dr. Ola approved the reprocessing of the lighted curettes. He is unaware of how often his wife reprocessed them nor what steps she took because she did the reprocessing outside office hours when he was not in the office.

[87] The evidence from Mrs. Ola was that she reprocessed both the syringing ear wash system with the ear tips on and the lighted curettes. She testified that she started reprocessing the lighted curettes in 2014 when they were on back order and difficult to obtain. She used Cidex, a brand name for glutaraldehyde, for the reprocessing, which she did on the weekends when the office was closed. Supply records obtained by Mr. Bellefontaine confirm that Dr. Ola's office purchased Cidex during the relevant time period.

[88] Dr. Ola explained that the reason he did not mention reprocessing until August 2024 was because he was never specifically asked about it and had forgotten about it given that his wife did the reprocessing. At the time of the investigation, while meeting with the investigator and providing supply information, he and his wife were also going through a difficult time due to the unexpected deaths in 2022 of several family members and friends. He explained that his wife was responsible for ordering supplies and while he asked her for the supply information during the investigation, he did not initially

advise her of the details of the investigation and the alleged supply shortfall because he did not want to burden her at the time.

[89] Dr. Ola relies on the opinion of Dr. Rau regarding the safety of reprocessing. Dr. Rau's opinion was based on information provided to him, which was that the ear wash system ear tips and ear curettes were reprocessed in batches approximately twice annually over a weekend. They were first thoroughly cleaned in soap and water and then soaked overnight in a glutaraldehyde solution. The next day, items were subjected to additional washing in warm water before being allowed to dry. Based on the information provided, Dr. Rau was of the view that, while not best practice, Dr. Ola's approach was time-limited and reasonable in response to a supply chain shortage. It was his opinion that the practice did not pose a risk of transmission of infection between patients.

Conclusion about the ear syringing and curetting

[90] We conclude that Dr. Ola inappropriately provided and billed OHIP for ear syringing and curetting when this service was not clinically indicated. Dr. Ola does not dispute this conclusion.

[91] We also conclude that Dr. Ola billed OHIP for syringing and curetting when he did not actually perform this service. In reaching this conclusion, we rely on the combination of the following:

- The evidence demonstrates a supply shortfall of at least 3,279 ear tips and curettes. The shortage is even greater - up to 4,479 - if one excludes the supplies purchased between November 2013 and November 2014. As submitted by the College, to include all the supplies purchased before 2015 (1,200) to explain the deficit from January 2016 to October 2021, assumes that Dr. Ola did not use such supplies for any syringing and curetting prior to 2016. Given how often he allegedly performed this service from 2016 onward, it is likely that he also performed it prior to 2016 such that some of the 2013 to 2014 supplies would have been used prior to January 1, 2016. The shortfall is therefore likely somewhere between 3,279 and 4,479, which is significant.

- Given the significant supply shortfall, even if we accepted that Dr. Ola and his spouse did some reprocessing, they would have had to reprocess

thousands of ear tips and curettes. This is unlikely given that Mrs. Ola only did the reprocessing on an occasional basis (twice annually according to the information she provided to Dr. Rau). Furthermore, to properly reprocess the ear tips, the entire syringing ear wash system had to be reprocessed, which would mean that the ear wash systems (Dr. Ola testified he had three of them) would not be in use while being reprocessed. Ear tips could not be reprocessed separately because they broke once removed from the system. It is therefore unlikely that ear tips were being properly reprocessed on a large scale. Alternatively, they were not being reprocessed by soaking in glutaraldehyde overnight and were simply washed with soap and rinsed at the end of the day, which appeared to be Dr. Ola's testimony. Again, however, the shortfall in the thousands would mean that he was rinsing and washing every time he used the ear syringing equipment, which was not his evidence.

- In any event, we do not accept that Dr. Ola and his spouse were reprocessing significant amounts of ear tips and curettes. This explanation was given to the College very late, in August 2024, after the investigation had ended and the file transferred to prosecution. As submitted by the College, Dr. Ola had multiple prior opportunities to offer the reprocessing explanation even if he was never specifically asked about reprocessing. He did not offer the reprocessing explanation when interviewed on May 11, 2022, at his medical practice by Mr. Bellefontaine in the presence of his counsel, during which Dr. Ola showed his ear curetting and syringing supplies. He did not offer the explanation in his letter of June 17, 2022, in which Dr. Ola replied to Mr. Bellefontaine's correspondence of May 23, 2022, wherein Mr. Bellefontaine summarized the point-of-care tests done by Dr. Ola and their associated supplies including single use and disposable ear tips and curettes. While Dr. Ola corrected some of the information summarized by Mr. Bellefontaine, he never corrected the reference to the single use and disposable nature of the ear tips and curettes nor advised the investigator that he reprocessed these items. Similarly, he did not offer the reprocessing explanation in his correspondence of March 3, 2023, in response to Mr. Bellefontaine's letter of February 20, 2023, in which he sought specific further information about

the ear syringing and curetting including the details of the equipment and supplies used. Dr. Ola provided the requested information and referenced the types of ear tips and curettes used and where he obtained these supplies, but said nothing about reprocessing.

- We also do not accept Dr. Ola's explanation that he forgot about reprocessing given that the reprocessed ear curettes would not be in the same type of packaging as the new ones when he came to use them. The extent of reprocessing would have been obvious to him from this.

- Furthermore, Dr. Ola's August 2024 reprocessing explanation is inconsistent with the information he provided in the correspondence of October 19, 2023, which stated that the deficit in ear tips and curettes supplies, "is explained by the additional supplies Dr. Ola had purchased in bulk prior to the dates of [the invoices provided]." The letter further states that, "Dr. Ola affirms that he had sufficient supplies to provide the services that were billed to OHIP." Mrs. Ola's testimony was also that she first began reprocessing in 2014 due to a supply shortage. This evidence, however, is inconsistent with the information Dr. Ola provided on October 19, 2023, that the shortage of supplies is explained by the supplies he bought in bulk prior to 2015. If there had been a shortage starting in 2014, Dr. Ola would not have been able to buy supplies in bulk at that time.

- The number of times Dr. Ola billed for ear curetting and syringing also supports the College's allegation that he billed for this service when it was not actually performed. It is unlikely that he performed this service 32 times, often monthly, between 2016 and 2021 for one patient. It is also unlikely that he performed this service seven times in one year on a one- to two-year-old child, given the discomfort associated with ear syringing in young children and the risk of perforating the eardrum when curetting the ear of a fidgeting child. The information obtained from the Ministry and analyzed by Mr. Bellefontaine also shows that Dr. Ola frequently charged this code for multiple patients on a single day. From 2016 to 2018, he submitted between 15 and 22 syringing/curetting (G420) claims on a single day on 51 different dates. It is unlikely that this many different patients

required, requested and/or tolerated having their ears syringed or curetted in one day at this frequency.

- Dr. Ola's clinical records for the 32 patient charts reviewed by Dr. Ferguson also do not support either the need for syringing/curetting or the results of the service.

- Dr. Ola's billing for ear syringing and curetting when no such service was rendered is consistent with his billing practices for other codes. For example, he repeatedly billed primary mental health care codes (K codes) when he did not spend the minimum amount of time on mental health care. He billed the wound debridement code when he did not do any debridement. He billed the prostatic massage code when he did not perform a prostatic massage. He billed the removal of a foreign body code when he did not remove a foreign body. His billing for ear syringing and curetting without rendering this service is similar to other billing patterns.

Nerve conduction studies (G455, G456, G457, G466)

[92] Dr. Ola regularly performed nerve conduction studies for his patients with a Diabetic Peripheral Neuropathy (DPN) Check machine that measures the health of the sural nerve, a biomarker for peripheral neuropathy. This is not a general nerve conduction study test as it only tests the sural nerve. Dr. Ola purchased the machine, made by NeuroMetrix, from its Canadian representative, Mr. Wanek. According to invoices and correspondence between Dr. Ola's office and Mr. Wanek, it appears that after first testing and renting a machine, Dr. Ola purchased a DPNCheck machine in June 2015. According to the invoices, Dr. Ola purchased a second device in October 2016.

[93] The fee code for nerve conduction studies has both a technical and a professional component, each with an associated fee code. The technical component is payment for providing premises, equipment, supplies and personnel to render the service. The professional component is payment for the physician to render the service.

[94] Like syringing/curetting, there are two allegations relating to Dr. Ola's billing for nerve conduction studies. First, he provided the service when it was not clinically indicated and second, he billed OHIP for the service when he did not render it. In

support of this second allegation, the College relies in part on a shortfall of supplies as compared with the OHIP claims made by Dr. Ola.

Frequency of nerve conduction study claims

[95] Dr. Ola was a frequent biller of nerve conduction studies. He submitted 3,893 OHIP claims for each of the technical and professional nerve conduction study fee code in the years 2016 (1,163 claims), 2017 (1,139 claims), 2018 (1,007 claims), 2019 (574 claims), and 2020 (7 claims). He did not submit any claims in 2021. He ranked among the top three among his peers for each of the years 2016, 2017, 2018 and 2019. According to Ms. Macrae's evidence, in 2018, Dr. Ola billed nerve conduction studies for 25% of his patients.

[96] Dr. Ferguson reported that in the 32 patient charts she reviewed, there were no neurological or musculoskeletal symptoms documented in most of the cases where Dr. Ola indicated having performed a nerve conduction study of the sural nerve.

The alleged supply shortfall

[97] The DPNCheck machine requires a disposable biosensor to perform the nerve conduction study. The biosensor is a strip that consists of embedded wires that run across one side of the strip. Prior to the test, the biosensor is inserted into a port on the device. The biosensors are used by the device to read and recover the nerve conduction information. The biosensors are sold separately from the device and are required to conduct a test. They are single-use, non-sterile devices and designed to be used with a single patient.

[98] In response to a summons, Mr. Wanek provided the College with copies of biosensor supplies ordered by Dr. Ola's office from him and from NeuroMetrix between 2015 and 2019. This evidence shows that Dr. Ola's office ordered 600 biosensors. Mr. Wanek, however, acknowledged that he experienced a computer failure such that it is possible that he was unable to provide copies of all invoices for ordered biosensors.

[99] In addition to the invoice evidence provided by Mr. Wanek, there was evidence of additional biosensors. Mr. Wanek testified that it was his practice to provide 15-20 complimentary biosensors to his customers to assist them during the start of his business relationship with them. He also gave Dr. Ola an additional 20 biosensors for referrals whereby Dr. Ola referred other physicians to Mr. Wanek. Mr. Wanek explained

that he did not give out many biosensors for free because he paid for the sensors himself. The invoices indicate that Dr. Ola generally paid $800 for 50 biosensors, which means that each sensor costs about $16. It is thus not surprising that Mr. Wanek did not provide large numbers of free biosensors to his customers.

[100] Mrs. Ola, who was responsible for procurement and invoices, also provided an invoice for an additional 31 biosensors purchased on June 25, 2015.

[101] In total, relying on the invoice evidence from Mr. Wanek and Mrs. Ola as well as Mr. Wanek's evidence regarding the complimentary biosensors, Dr. Ola had up to 671 biosensors yet submitted 3,893 claims during the relevant time period. This deficit of 3,222 biosensors assumes that the sensors purchased in 2015 were used from 2016 onwards and not in 2015.

[102] Dr. Ola's explanation for the shortfall is that his office used each sensor multiple times. There is, however, a dispute as to the number of times each sensor could be used before the machine displayed an error code and could no longer be used.

[103] While the biosensors are sold as single-use, Mr. Wanek explained that they are designed to account for the possibility that the user will need to perform additional tests using the same biosensor on the same patient where there has been a user error or an inaccurate reading. The written evidence from the manufacturer and the sworn evidence from Mr. Wanek is that each biosensor can be used up to four times. Using the biosensor more than four times triggers an error code, which causes the device to shut down. As explained by the manufacturer in an email to Mr. Wanek on December 22, 2015, if a single biosensor is used across multiple patients, the device detects the misuse and locks the device as it is designed to be punitive. Once it shuts down, the machine must be returned to the manufacturer in Massachusetts, United States, for a factory reset. The email of December 22, 2015, further states that while the manufacturer had been lenient up to that point, there would be a cost going forward to reset the machine's software.

[104] Dr. Ola and his spouse testified that the nerve conduction testing was done by staff: either Mrs. Ola or another office staff person. Mrs. Ola testified that during the training he provided, Mr. Wanek told her that the biosensors could be used five or six times or until they stopped working. Mr. Wanek denied advising staff that the biosensors could be used more than four times and added that it would not have been in his interest

to provide such information because he earned income from the purchase of biosensors. As noted earlier, the evidence from the manufacturer was that the biosensors were intended for use on a single patient and could only be used four times before the machine stopped functioning and had to be sent to Massachusetts for a manufacturer reset.

[105] The correspondence between Mrs. Ola and Mr. Wanek is somewhat conflicting as to what Mrs. Ola understood in terms of the reuse of biosensors. On June 5, 2015, Mrs. Ola wrote to Mr. Wanek and advised that a staff member had put a new strip to test a patient but used it five times on that patient: three times on one leg and twice on the other leg. The following morning, the staff person put in a new strip and obtained the error code. The email further states that Mrs. Ola had advised staff not to test more than four times per strip. This email suggests that she knew that each biosensor could not be used more than four times. However, in response to the email from the manufacturer of December 22, 2015, which Mr. Wanek forwarded to her in February 2016, Mrs. Ola asked Mr. Wanek to call her because the information “contradicts” what she was being told. It is unclear from Mrs. Ola’s correspondence if the contradictory information relates to the number of times the sensors could be used or other information contained in the manufacturer’s email.

[106] There was also some conflicting evidence as to how often each biosensor was used by Dr. Ola’s staff. In a letter to Mr. Bellefontaine dated June 17, 2022, through his counsel, Dr. Ola corrected his previous statement that the biosensors were single use and estimated that, “on average each biosensor was used for approximately five tests (i.e. sometimes more and sometimes less).” At the hearing, Mrs. Ola testified that when she administered the test, she changed the biosensor after about five to six uses and sometimes used it more than six times.

[107] Mrs. Ola also acknowledged that the device at times locked up. She testified that in these situations, NeuroMetrix sent her a prepaid FedEx box for pick up, following which they repaired the machine and returned it to her. She testified that they returned the device in a week or a couple of days. Mrs. Ola also testified that the office had five machines.

Conclusion about the nerve conduction studies

[108] We conclude that Dr. Ola inappropriately rendered and billed OHIP for nerve conduction studies when this service was not clinically required. This conclusion is not in dispute.

[109] We also conclude that Dr. Ola billed OHIP for nerve conduction studies when he did not actually render this service. In reaching this conclusion, we rely on the combination of the following:

- Even if we accepted the evidence from Dr. Ola that each biosensor was used an average of five times, this would not fully explain the deficit. Using each biosensor five times would mean that staff only ever used the biosensor once per nerve conduction study claim for a total of 3,355 claims. Yet, Dr. Ola submitted 3,893 claims. Furthermore, it is unlikely that a biosensor was only used once per claim. As testified by Mr. Wanek, the reason why biosensors could be used up to four times was to account for the possibility that the user may need to perform additional tests on the same patient using the same biosensor where there has been a user error or an inaccurate reading.

- In any event, we do not accept the evidence from Dr. Ola and Mrs. Ola that each biosensor was used on average five or more times. In addition to the evidence from Mr. Wanek and the email correspondence from the manufacturer, there is evidence in Mrs. Ola's email of June 5, 2015, that the machine had shut down after five uses. If Dr. Ola's staff was consistently using each biosensor five times or more, they were also consistently sending the machine back to the United States for reset. This would mean that the machines could not be used for further testing. Given the number of claims submitted for nerve conduction claims, it is unlikely that the machines were unavailable because they were being regularly reset in Massachusetts.

- We also do not accept Mrs. Ola's evidence that NeuroMetrix provided her with prepaid FedEx boxes to send the machines back to NeuroMetrix. The email of December 22, 2015, from NeuroMetrix is that no further complimentary resets would be provided. We also do not accept her

evidence that the office owned five machines. This evidence appeared to have been fabricated to explain how the office could keep performing nerve conduction studies if the machines were continuously travelling between Ontario and Massachusetts. There were invoices for only two machines.

- In arriving at our conclusion, we have not relied on the absence of the report results for the nerve conduction studies. Since the DPNCheck device cannot store results, these need to be uploaded to a computer after every patient. Dr. Ola advised that he used three computers to store the results of the DPNCheck. The forensic computer evidence, however, was inconclusive as the College was only able to analyze one of the three computers.

- Dr. Ferguson's review of the 32 patient charts did not for the most part reveal that services were billed when not rendered. She reported that while there were some instances where point-of-care tests were billed without any corresponding results in the chart, especially pulmonary function tests, these were not the majority. Regarding the nerve conduction studies, she indicated that the reports were quite brief. We note that Dr. Ferguson only reviewed 32 patient charts. The general presence of results in these 32 patient charts in our view, does not account for the thousands of claims Dr. Ola submitted for nerve conduction studies when he had between 600 and 671 single-use sensors for this same period.

- Mr. Wanek testified that it was possible that he was unable to provide all invoices for sensors due to his computer failure. We note, however, that the invoices he provided cover the time period from June 22, 2015, to January 18, 2019, and include at least one invoice each year. There are no significant time gaps in the invoices. Other than the first two invoices where 100 sensors were ordered, the remaining invoices are for 50 sensors. Ordering only 50 sensors at a time is not consistent with the number of claims Dr. Ola made for nerve conduction studies. Furthermore, Dr. Ola's main defence was not that multiple invoices were likely missing but rather, that each sensor was used five times or more, a defence that we do not accept.

- As noted in the previous section, Dr. Ola's claims for nerve conduction studies when this service was not rendered is not unlike his billing practices for other codes.

The Deliberateness of Dr. Ola's OHIP Billing Practices

[110] As found in the preceding sections, in addition to billing for services not rendered (specifically the ear syringing/curetting and the nerve conduction studies), Dr. Ola regularly provided and billed for OHIP services that were not clinically indicated, wrongfully billed the primary mental health care code, and misused multiple codes where the service he provided did not meet the Schedule of Benefits criteria.

[111] Dr. Ola's main defence is that he used a comprehensive and preventative medicine approach where he proactively tried to prevent disease. He testified that for several tests, he wanted to get a baseline and then monitor for improvements or deteriorations. In essence, he wanted to be able to address health issues quickly.

[112] We do not accept this defence because, as found in Dr. Ferguson's report, "despite the extremely large number of these tests, almost none of the results appeared to change Dr. Ola's management of these patients. Even in situations where results were abnormal, Dr. Ola did not take any action based on the results." In other words, Dr. Ola performed tests for the sake of performing tests rather than to proactively and comprehensively attend to his patients' needs.

[113] We outline below some of the more flagrant examples of Dr. Ola's failure to follow up on abnormal results, as found in Dr. Ferguson's review of the 32 patient charts:

- For Patient 27, Dr. Ola billed for performing six nerve conduction studies of the sural nerve, all of which were abnormal. Dr. Ola did not action these abnormal results over the six-year review period nor document having discussed the results with the patient until the patient complained of paresthesia and pain in 2021 at which time Dr. Ola referred the patient to a neurologist who diagnosed an inherited axonal polyneuropathy.

- For Patient 12, Dr. Ola billed for performing 11 sets of pulmonary function tests. Several tests showed a restrictive pattern that Dr. Ola did not address. Dr. Ola also billed for performing eight nerve conduction studies

of the sural nerve, which showed evidence of mild neuropathy but there was no documentation that Dr. Ola discussed the results with the patient or that they influenced his management. Similarly, he performed four ankle-brachial index tests, three of which were abnormal. There was no documentation that Dr. Ola discussed the results with the patient or that they affected his management of this patient.

- Dr. Ola did not address positive urine cultures for Patient 16. Urine culture tests on August 9, 2016, November 1, 2016, April 7, 2018, July 16, 2018, November 26, 2021, January 24, 2021, and June 17, 2021, were positive for E. Coli. There was no documentation that Dr. Ola provided any treatment or discussed the results with the patient until May 7, 2021, when Dr. Ola documented that despite the positive culture, the patient had no symptoms and that he therefore planned to repeat the tests. He repeated the test, which was again positive but was not addressed.

- For Patient 23, Dr. Ola performed an electrocardiogram, which demonstrated that the patient appeared to be in atrial fibrillation, with no past history of this diagnosis. While Dr. Ola reported the finding of atrial fibrillation, he did not document taking any action or advising the patient of the results. The patient underwent subsequent cardiac investigations demonstrating sinus rhythm, but these were ordered by her oncology team several months later. Dr. Ola's defence was that the patient told him her oncology team was investigating cardiac issues. However, as reported by Dr. Ferguson, Dr. Ola should have communicated with them to ensure they were aware of the new atrial fibrillation findings.

- Dr. Ola performed multiple drug screens for Patient 25. At least 10 of these were positive for phencyclidine (PCP). Dr. Ola did not document ever addressing these results or an awareness of whether the positive results were caused by one of the patient's prescribed medications. In his interview with Dr. Ferguson, Dr. Ola explained that he felt that the results were likely a false positive due to one of the prescribed medications but was unsure which one.

[114] Dr. Ola's defence to the above was generally that his clinical records did not document his discussions and actions taken. We do not accept this explanation since there is documentation when Dr. Ola finally decided to address positive results multiple visits and years later, as with Patients 25 and 27.

[115] Furthermore, some point-of-care tests done for various patients had no rational explanation and cannot reasonably support Dr. Ola's defence that they were done as part of his comprehensive and preventative medicine approach. These include the following:

- Dr. Ola performed multiple urine drug screens on a child who was younger than three years old (Patient 31).
- Dr. Ola performed six urine pregnancy tests on a patient who had a previous tubal ligation, a highly effective contraception method, without any signs or symptoms of possible pregnancy (Patient 2).
- Dr. Ola performed 21 urine drug screens for Patient 16, and 22 urine drug screens for Patient 21. The results were all negative. Neither patient had a history of substance use and neither was prescribed opioids or other controlled substances.
- Dr. Ola performed seven urine pregnancy tests for a 20-year-old patient with no documentation as to whether this patient was even sexually active. Dr. Ferguson opined that if this patient was sexually active, it would have been more helpful to discuss contraceptive options or offer testing for sexually transmitted disease than repeatedly performing urine pregnancy tests (Patient 26).

[116] For some of his OHIP billing claims, Dr. Ola also professed misunderstanding or being unaware that he could not bill the code as claimed (the primary mental health code, the special visit premium code, and the wound debridement code, among others).

[117] We do not accept this explanation. There was evidence from Dr. Ola himself that he was very much attuned to the Schedule of Benefits and its various amendments. For example, Dr. Ola changed his practice regarding urine pregnancy tests and ear syringing and curetting when the Schedule of Benefits changed and significantly restricted the

criteria for payment for these codes. Dr. Ola also knew that that the Schedule of Benefits did not permit claims on the same date for the two different pulmonary function tests (simple spirometry and flow volume loop study), which is why he billed them on separate dates even though he did not render the service on different dates.

[118] We also do not accept Dr. Ola's explanation that he did not know that he could not bill for electrocardiograms without symptoms when the Schedule of Benefits specifically states that the electrocardiogram codes, "are *not eligible for payment* when rendered to a patient who does not have symptoms, signs or an indication supported by current clinical practice guidelines relevant to the individual patient's circumstances."

[119] Furthermore, the sheer number of codes that Dr. Ola inappropriately billed supports the College's submission that Dr. Ola's inappropriate billing practice was deliberate. This is not a case where Dr. Ola was mistaken about one or two codes. On the contrary, the practice of inappropriate billing was systemic. It was also very lucrative. As found in Mr. Bellefontaine's analysis of his billings, Dr. Ola was paid over five million dollars for the submitted fee codes from January 1, 2016, to October 19, 2021:

Year	# Fee Codes Submitted	Sum of Fee Paid
2016	44,807	$1,045,677.67
2017	46,901	$1,053,266.78
2018	41,835	$969,145.81
2019	33,901	$836,422.72
2020	19,619	$766,944.07
2021 (partial year)	13,759	$608,656.10
Grand Total	200,822	$5,280,113.15

[120] Ultimately, we conclude that the volume and pattern of the OHIP claims coupled with Dr. Ola's failure to action abnormal results, indicate that he inappropriately billed OHIP to inflate his OHIP payments rather than as part of a comprehensive and preventative approach to medicine. He knowingly billed for services not rendered, for services not clinically indicated and for services that did not meet the OHIP Schedule of

Benefits criteria. In doing so, Dr. Ola engaged in disgraceful, dishonourable or unprofessional conduct contrary to paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, SO 1991, c. 30 (professional misconduct regulation).

Failure to Maintain the Standard of Practice of the Profession

[121] As noted earlier, Dr. Ferguson prepared reports in respect of Patients A, B and C and in respect of the Registrar's investigation, for which she reviewed 32 patient charts.

[122] In her first report, Dr. Ferguson opined that the care Dr. Ola provided to Patients A, B, and C did not meet the standard of practice of the profession. The main issue was that he billed OHIP for many unnecessary investigations where he did not document a clinical rationale for performing such investigations.

[123] In her second report, she opined that the care Dr. Ola provided did not meet the standard of practice in 25 of the 32 patient charts reviewed. The main concern was regarding the OHIP billing for tests, visits and procedures. Most of the point-of-care tests he performed were not indicated based on his documentation. The similar pattern across the 32 charts demonstrated that this was a consistent issue. Dr. Ferguson also reported concerns with Dr. Ola's prescribing practices and his failure to follow up on abnormal results for certain patients. She reported that while ordering excessive tests may not be extremely harmful to an individual patient, it can be inconvenient and uncomfortable. Additionally, ordering excessive tests and billing for unnecessary services are harmful to the publicly funded health system.

[124] Dr. Ola does not dispute Dr. Ferguson's reports and opinions, and he does not contest the allegation that he failed to maintain the standard of practice of the profession in his care of patients.

[125] Relying on the uncontested opinion of Dr. Ferguson, we conclude that contrary to paragraph 1(1)2 of the professional misconduct regulation, Dr. Ola failed to meet the standard of practice of the profession in his care of Patients A, B and C, and in his care of 25 of the 32 patients whose charts Dr. Ferguson reviewed.

Conclusion

[126] In summary, we conclude that the College has proven the allegations against Dr. Ola on a balance of probabilities.

[127] Dr. Ola engaged in disgraceful, dishonourable or unprofessional conduct in his boundary violations with Patients A, B and C. He also engaged in disgraceful, dishonourable or unprofessional conduct in knowingly and deliberately billing OHIP for services not rendered, for services not clinically indicated and for services which he knew did not meet the Schedule of Benefits criteria.

[128] Dr. Ola failed to meet the standard of practice of the profession in his care of Patients A, B and C, and in his care of 25 of the 32 patients whose charts Dr. Ferguson reviewed.

[129] The Tribunal Office will schedule a date to hear evidence and submissions on penalty and costs.

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Citation: *College of Physicians and Surgeons of Ontario v. Ola,* 2025 ONPSDT 35
Date: December 18, 2025
Tribunal File No.: 23-023

BETWEEN:

College of Physicians and Surgeons of Ontario

College

- and -

Foluso Ayomitunde Olusegun Ola

Registrant

PENALTY REASONS

Heard: November 12, 2025, by videoconference

Panel:
Sophie Martel (panel chair)
Lucy Becker (public)
Stephen Hucker (physician)
Linda Robbins (public)
Janet van Vlymen (physician)

Appearances:
Sayran Sulevani and Ada Jeffrey, for the College
Andrew Matheson and Marc Flisfeder, for the registrant

RESTRICTION ON PUBLICATION

Pursuant to Rule 2.2.2 of the HPDT Rules of Procedure and ss. 45-47 of the Health Professions Procedural Code, no one shall publish or broadcast the names of patients or any information that could identify patients or disclose patients' personal health information or health records referred to at a hearing or in any documents filed with the Tribunal. There may be significant fines for breaching this restriction.

Introduction

[1] We found that Dr. Ola committed professional misconduct by deliberately overbilling the Ontario Heath Insurance Plan (OHIP) to inflate his payments. He did so by billing for services that he did not render, for services that were not clinically indicated, and for services that he knew did not meet the criteria in the OHIP Schedule of Benefits. He failed to maintain the standard of practice of the profession by billing OHIP for unnecessary investigations and by failing to follow up on abnormal results for certain patients. Additionally, we found that Dr. Ola committed boundary violations with three patients. See *College of Physicians and Surgeons of Ontario v. Ola*, 2025 ONPSDT 22.

[2] Dr. Ola abused the trust-based physician billing system that is funded by the public. He subjected patients to medically unnecessary tests. All of this was done for his own financial gain rather than for his patients' wellbeing. The overbilling, which occurred over several years, was large in volume and in scope. It involved multiple different fee codes and hundreds of thousands of dollars. The appropriate penalty for this misconduct is revocation of his certificate of registration, the maximum fine of $35,000 and a reprimand. We also order Dr. Ola to pay the College costs of $51,850, calculated under the Tariff in the Tribunal's Rules of Procedure.

The Parties' Positions

[3] The only additional documentary evidence was a decision dated May 18, 2016, from the Inquiries, Complaints and Reports Committee (ICRC) relating to Dr. Ola. Neither party called any oral evidence.

[4] The College's position is that Dr. Ola's misconduct represents a profound and sustained breach of the trust that underpins Ontario's publicly funded healthcare system. It submits that there are no mitigating circumstances and that only revocation of Dr. Ola's certificate of revocation can adequately protect the public, restore confidence in the profession and send a clear message to the profession and the public that deliberate and systemic OHIP overbilling will not be tolerated.

[5] The registrant opposes the College's submission. The registrant proposes a 12-month suspension of his certificate of registration, completion of the PROBE Ethics & Boundaries Program, supervision of his OHIP billings for three years, and 12-months of

graduated clinical supervision followed by a practice reassessment. The registrant submits that his admission to many of the underlying facts in this matter should serve as mitigation. He also submits that the evidence supports a change in his billing practice after the OHIP audit. As a result, he submits that his admissions and practice changes demonstrate insight, remorse and a willingness to engage in remediation. He further submits that the proposed penalty terms adequately protect the public.

Penalty Principles

[6] The most important goal of a penalty order is the protection of the public. Protection of the public has two components: the public must be protected from further misconduct by the physician, and the public must have confidence in the ability of the College, and the Tribunal, to govern the profession effectively and maintain public trust. Other penalty purposes include specific and general deterrence and rehabilitation where a safe return to practice is appropriate.

[7] The Tribunal summarized the factors to consider when deciding penalty: the seriousness of the misconduct, the physician's discipline history, the physician's actions since the misconduct, and the physician's personal circumstances. See *College of Physicians and Surgeons of Ontario v. Fagbemigun*, 2022 ONPSDT 22 at paras. 12-18; aff'd *Fagbemigun v. College of Physicians and Surgeons of Ontario*, 2023 ONSC 2642.

[8] The seriousness of the misconduct is usually the most significant factor to consider. The Tribunal will examine what the physician did, the physician's motivation, the number of times the misconduct happened, how long the misconduct lasted and the effects or potential effects of the misconduct on others. See *Fagbemigun* at para. 13.

Application to this Case

The seriousness of the misconduct

[9] The misconduct in this case was serious, multi-faceted and lasted several years.

[10] The misconduct included boundary violations with three patients that included hugging one of the patients, making comments to all three patients about their appearances and giving one of the patients a cash gift.

[11] The more serious misconduct, however, concerned Dr. Ola's billing practices. We found that he billed for services that he did not render (ear syringing/curetting and nerve

conduction studies). We also concluded that he regularly provided and billed OHIP for services that were not clinically indicated. Furthermore, he misused multiple fee codes where the service he provided did not meet the Schedule of Benefits criteria. This was especially flagrant regarding his claims for primary mental health codes. He billed for a patient assessment and simultaneously billed an additional primary mental health code for most of his patient visits. He ran the clock concurrently between assessments and primary mental health care. He did not spend the required minimum time on primary mental health care. Dr. Ola claimed over two million dollars in primary mental health claims (K codes) from January 1, 2016 to October 19, 2021.

[12] Most significantly, we rejected Dr. Ola's defence that he misunderstood the Schedule of Benefits criteria and that he was offering services to his patients as part of a comprehensive and preventative medicine approach. We concluded that Dr. Ola deliberately inflated his OHIP claims. We also noted that his practice of inappropriate billing was systemic and lucrative in that he was paid over five million dollars for the submitted fee codes from January 1, 2016 to October 19, 2016.

[13] Lastly, we found that Dr. Ola failed to meet the standard of practice of the profession in his care of multiple patients, whose charts had been reviewed by an expert, Dr. Ferguson. The point-of-care tests he performed were not indicated based on his documentation. Furthermore, there were concerns with his prescribing practices and his failure to follow up on abnormal results for certain patients.

Discipline history

[14] Dr. Ola does not have a discipline history.

[15] There is an ICRC decision of May 1, 2016, regarding Dr. Ola's professionalism in responding to an insurance company's request for a patient's medical records. The issues included the excessive amount Dr. Ola stated he was charging for the transfer, his refusal to send the information until he was paid, the timeliness of the transfer, and his evasiveness when responding to the insurance company's request. There were also concerns respecting the documentation found in the patient's chart including an overreliance on templates. The ICRC cautioned Dr. Ola about his billing, professionalism and medical record-keeping.

[16] Prior ICRC dispositions do not constitute a prior discipline history. The ICRC decision, however, demonstrates that Dr. Ola had some knowledge about needing to keep proper medical documentation. This is relevant in that the multiple point-of-care tests that were the subject of this proceeding were not supported by adequate medical documentation.

[17] Furthermore, the ICRC also highlighted how Dr. Ola had estimated his hourly rate for the purposes of his fee in reviewing the charts he provided to the insurance company. He based his fee on seeing five patients per hour. However, his patient records documented each patient visit as lasting 20 minutes, which means that he could only see three rather than five patients per hour. In our view, it is noteworthy that Dr. Ola was advised about concerns related to how he calculated billing time, a significant issue in the current proceeding.

Physician's actions since the misconduct and personal circumstances

[18] Both parties made submissions on the effect of Dr. Ola's admission to many of the facts in this case, which shortened the hearing.

[19] We agree that the registrant made many factual admissions and that because of his admissions, the hearing proceeded with much of the evidence being tendered by affidavit, cross-examination of some of the witnesses and other documentary evidence. As a result, the hearing time was used very efficiently.

[20] However, we also note that Dr. Ola did not admit to the more significant issue in this case: the deliberateness of his overbilling. He was entitled to defend this aspect of the allegations and his decision to do so is not an aggravating factor.

[21] We accept that Dr. Ola's partial admissions saved the College some costs and the need to call certain witnesses, and in this sense, merits some mitigation. However, Dr. Ola did not admit to deliberately overbilling. As such, his admission to some of the facts does not show any significant insight or remorse in our ultimate findings regarding the deliberateness of his actions.

[22] Nor do we ascribe any weight to the change in Dr. Ola's billing practices after he was audited by OHIP. We found that Dr. Ola deliberately rather than inadvertently overbilled OHIP. Ceasing to steal from the public purse once found out is not mitigating.

[23] Dr. Ola also highlighted other personal circumstances: his lack of mentorship and the unexpected deaths of family members and friends in 2022. Firstly, we note that the misconduct findings cover the period 2016 to 2021. As such, the events of 2022 have no bearing on the misconduct that occurred prior to these events.

[24] While we agree that lack of opportunity for mentorship, especially in the context of racialized and internationally trained physicians, may be a factor to consider, we reject its applicability in this case. We did not conclude that Dr. Ola's overbilling was inadvertent or based on insufficient knowledge of the Schedule of Benefits. On the contrary, we concluded that Dr. Ola deliberately overbilled to inflate his own earnings. Physicians are expected to practise the profession with integrity and in the best interests of their patients. Knowingly inflating one's OHIP billings is the antithesis to this expectation.

Conclusion

[25] We agree with the comments made in *College of Physicians and Surgeons of Ontario v. Attallah*, 2020 ONCPSD 38, that in matters of deliberate and dishonest conduct, the primary penalty considerations are protection of the public and maintaining the public's confidence in the profession (at page 17). Furthermore, general deterrence is a critical penalty consideration in cases of deceptive billing. Mitigation and rehabilitation are less important in cases of large-scale dishonesty involving a person in a position of trust (*Attallah* and *R. v. Bogart*, 2002 CanLII 41073 (ON CA) at para. 30).

[26] The facts of this case are similar to those in *Fagbemigun*. Like our findings regarding Dr. Ola, Dr. Fagbemigun was found to have billed OHIP for numerous tests and procedures he did not provide or were not billable. He also failed to meet the standard of practice of the profession because his documentation was inaccurate, he sent patients for unnecessary tests and documented tests that never happened. The panel in *Fagbemigun* noted that while older cases at times resulted in suspensions for OHIP fraud cases, penalties had increased over the past 20 years. It noted that more recent contested cases of deliberate OHIP fraud had led to revocation.

[27] In support of his submission for a lengthy suspension rather than revocation of his certificate of registration, coupled with terms, conditions, and limitations, Dr. Ola mainly relied on the following three decisions: *College of Physicians and Surgeons of Ontario v. Martinez*, 2020 ONCPSD 29, *College of Physicians and Surgeons of Ontario v. Sharma*,

2025 ONPSDT 5, and *College of Physicians and Surgeons of Ontario v. Abdurahman*, 2018 ONCPSD 42.

[28] We note that both *Martinez* and *Sharma* proceeded based on agreed statements of facts or statements of uncontested facts along with pleas of admission or no contest. They were also decided in the context of joint submissions on penalty, where the decision-maker's role is limited. Furthermore, there were no specific findings of deliberate overbilling for personal gain. Additionally, in *Martinez* there were some mitigating factors, in that Dr. Martinez had repaid his debt to an insurance company for the inaccurate billings involving its claims and had agreed to repay his debt to OHIP for his K code billing errors.

[29] *Abdurahman* also proceeded based on an agreed statement of facts and misconduct admissions. The parties also agreed on many aspects of the penalty order. They disagreed on the length of a suspension, the length of clinical supervision period and the fine amount. The misconduct was serious. Dr. Abdurahman violated the terms of an alternate payment plan by billing OHIP for over $200,000 when OHIP billing was specifically prohibited by the plan. While he was being paid to be on call at one hospital, he was often unavailable providing clinical services in other geographical locations contrary to the terms of the alternate payment plan. He also provided inaccurate information to the hospital regarding his activities and asked that they alter the on-call schedule to cover-up his unauthorized absences. We note, however, that neither party made submissions in support of revocation. Furthermore, the case was decided in 2018, several years ago and prior to the Tribunal's reasons in *Fagbemigun*.

[30] We are of the view that the facts in this case more closely resemble those set out in *Fagbemigun*. As with Dr. Fagbemigun, Dr. Ola took hundreds of thousands of dollars from the health care system to which he was not entitled. He did so intentionally and for his personal gain. Dr. Ola harmed the health care system as well as his patients by subjecting them to unnecessary tests. In our view, the revocation of Dr. Ola's certificate of registration is the appropriate penalty in this case. Revocation coupled with a reprimand demonstrates the seriousness with which this Tribunal views this type of dishonest misconduct. It protects the public, restores the public's confidence in the profession and sends a message to the profession that intentional misbilling of OHIP leads to serious consequences.

[31] We do not have the power to order Dr. Ola to repay the monies he took. However, we have the power to order a fine of up to $35,000, payable to the Minister of Finance. The fine is far less than the amount Dr. Ola deliberately overbilled OHIP. As stated in *Fagbemigun*, the fine allows us to order some payment to the taxpayers of Ontario, from whom Dr. Ola took the money. We impose the maximum fine of $35,000.

Costs

[32] The parties agree that the registrant should pay costs to the College of $51,850. This represents five full days of hearing for the liability and penalty portions of the hearing. The Tariff found in the Tribunal's Rules of Procedure is $ 10,370 for a full-day hearing. We agree that $ 51,850 is an appropriate costs order.

Order

[33] We order:

Penalty

1. The Tribunal requires the registrant to appear before the panel to be reprimanded.

2. The Tribunal directs the Registrar to revoke the registrant's certificate of registration effective December 19, 2025 at 12:01 a.m.

3. The Tribunal requires the registrant to pay a fine of $35,000 to the Minister of Finance by January 19, 2026.

Costs

4. The Tribunal requires the registrant to pay the College costs in the amount of $51,850 by January 19, 2026.

ONTARIO PHYSICIANS AND SURGEONS DISCIPLINE TRIBUNAL

Tribunal File No.: 23-023

BETWEEN:

College of Physicians and Surgeons of Ontario

College

- and -

Foluso Ayomitunde Olusegun Ola

Registrant

The Tribunal delivered the following Reprimand by videoconference on Tuesday, February 3, 2026

*****NOT AN OFFICIAL TRANSCRIPT*****

Dr. Ola,

you committed professional misconduct by deliberately overbilling the Ontario Health Insurance Plan and by failing to maintain appropriate boundaries with three patients, a mother and her two daughters, including engaging in physical contact such as hugging and making comments about their appearance.

In doing so, we found that you failed to maintain the standard of practice of the profession and engaged in conduct that is disgraceful, dishonourable, or unprofessional. These findings relate to serious and repeated acts of professional misconduct and represent a fundamental departure from the standards expected of a physician practising medicine in Ontario.

The boundary violations constitute an abuse of the physician–patient relationship. Patients are entitled to trust that their physician will act solely in their best interests and will always maintain clear and appropriate professional boundaries. Your conduct demonstrated a failure to respect these boundaries and caused harm to the integrity of the clinical relationship and to public confidence in the medical profession.

In addition, we found that you knowingly and inappropriately over-billed OHIP. This misconduct included billing for services that you did not render, billing for services that were not clinically indicated, and billing for services that you knew did not meet the requirements of the OHIP Schedule of Benefits. The over-billing was extensive in both volume and scope, involving multiple fee codes and resulting in improper payments totalling hundreds of thousands of dollars. We concluded that your billing practices were not part of a preventative and comprehensive approach to medicine but rather, were deliberately undertaken to inflate your OHIP payments.

This conduct represents a serious abuse of the publicly funded health care system and a breach of the trust placed in you by the public.

Your boundary violations, dishonest billing practices, and failure to meet the standard of practice of the profession demonstrate a troubling pattern of misconduct marked by poor judgment, lack of integrity, and a lack of insight into the seriousness of your actions.

As a result of this misconduct, we ordered that you pay the maximum fine of $35,000 to the Minister of Finance, and that the Registrar revoke your certificate of registration. This sanction reflects the seriousness of your conduct, the need to protect the public, and the importance of maintaining confidence in the medical profession.