

Indexed as: Paikin (Re)

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

IN THE MATTER OF a Hearing directed
by the Executive Committee of
the College of Physicians and Surgeons of Ontario
pursuant to Section 36(1) of the *Health Professional Procedural Code*,
being Schedule 2 of the *Regulated Health Professions Act*,
1991, S.O. 1991, c. 18, as amended.

B E T W E E N:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. SARAH PAIKIN

PANEL MEMBERS:

R. SANDERS (CHAIR)
DR. Y. deBUDA
DR. D. BRADEN
DR. M. WOLFISH
A. VANSTONE

Hearing Date: July 30, 2002
Decision/Released Date: July 30, 2002

DECISION AND REASONS FOR DECISION

The Discipline Committee of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on July 30, 2002. At the conclusion of the hearing, the Committee made and delivered its finding that the member was guilty of professional misconduct and pronounced its penalty order. The Committee further indicated that its reasons for decision would be delivered subsequently in writing.

ALLEGATIONS

The Notice of Hearing contained the following allegations of professional misconduct:

1. It is alleged that Dr. Sarah Paikin has committed an act of professional misconduct under subsection 51(1)(a) of the *Health Professions Procedural Code* (“the Code”), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, in that she has been found guilty of an offence that is relevant to her suitability to practise;
2. It is further alleged that Dr. Sarah Paikin has committed an act of professional misconduct under subsection 1(1)(21) of Ontario Regulation 856/93 in that she charged a fee that was excessive in relation to the services performed.
3. It is further alleged that Dr. Sarah Paikin is guilty of professional misconduct for conduct or an act relevant to the practise of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, which is professional misconduct as defined in subsection 1(1)33 of Ontario Regulation 856/93.

PLEA

Dr. Paikin pleaded guilty to allegation 1 in the Notice of Hearing. The College withdrew allegations 2 and 3.

FACTS

On May 4, 1999, the Ontario Provincial Police charged Dr. Paikin with seven (7) counts of fraud under \$5,000.00. The charge was in relation to billings submitted to OHIP between December 17, 1993 and January 1998 for psychotherapy services, which did not conform to the particular requirements of the schedule of benefits.

On January 16, 2001, Dr. Paikin pleaded guilty before Justice E.S. Lindsay of the Ontario Court of Justice to one count of “obtaining payment for insurance services she was not entitled to”, which is a regulatory offence under s.44 of the *Health Insurance Act*, and was found guilty of that offence. The seven (7) counts of fraud under the Criminal Code were withdrawn. A joint submission was made and Dr. Paikin was fined the maximum of \$5,000 with victim surcharge and ordered to repay \$10,628.76 to OHIP. It was acknowledged before the Committee that this was a case of failing to exercise due diligence, and not a case involving fraudulent intent.

The transcript of the court proceeding dated January 16, 2001 was filed in evidence before the Committee.

FINDING

Having regard to the evidence, the plea and the submissions of counsel, the Committee found that Dr. Paikin committed an act of professional misconduct under clause 51(1)(a) of the Code in that she has been found guilty of an offence that is relevant to her suitability to practise.

PENALTY AND COSTS

The Committee took a number of factors into consideration to determine the appropriate penalty and costs order in this matter. The Committee reviewed the letters of support from patients filed by counsel for Dr. Paikin. The Committee noted that Dr. Paikin committed a regulatory offence as opposed to a criminal offence. The Committee considered that recent billing cases before the Committee resulting in substantial penalties related to convictions for criminal fraud. The Committee also noted that Dr. Paikin had paid the maximum fine in the court proceedings and had repaid OHIP in full.

The Committee accepted Dr. Paikin's plea of guilt as an indication of her remorse and recognized that her plea resulted in a shorter hearing. The Committee also further considered that Dr. Paikin had no prior discipline record.

However, the Committee believes that members of the profession must exercise due diligence in billing practices in order to maintain the integrity of the OHIP billing system and the integrity of the profession. Improper billing practices impact on the public purse and patient care. The penalty must serve as a specific deterrent for the physician and a general deterrent against similar conduct by others.

In light of the above factors, the Committee believes that the following Order is appropriate in this case.

ORDER

The Committee therefore ordered and directed that:

1. Dr. Paikin be required to appear before the Committee to be reprimanded and that the reprimand be recorded on the register.
2. Dr. Paikin pay a fine in the amount of \$3000.00 to the Minister of Finance within 30 days of July 30, 2002.
3. Dr. Paikin pay costs to the College in the amount of \$2500.00 within 30 days of July 30, 2002.

Dr. Paikin waived her right to appeal under s.70 of the Code and the panel administered the reprimand after the conclusion of the hearing.