

Indexed as: Eskandar (Re)

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

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

B E T W E E N:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. MONIRA NAGUIB ESKANDAR

PANEL MEMBERS:

DR. M. DAVIE (Chair)
DR. E. ATTIA (Ph.D.)
DR. P. CHART
S. BERI
DR. M. GABEL

Hearing Date: June 17, 2009
Decision Release Date: June 17, 2009
Release of Written Reasons: July 16, 2009

DECISION AND REASONS FOR DECISION

The Discipline Committee of the College of Physicians and Surgeons of Ontario (the “Committee”) heard this matter at Toronto on June 17, 2009. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty order with written reasons to follow.

THE ALLEGATIONS

The Notice of Hearing alleged that Dr. Eskandar committed acts of professional misconduct:

1. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”), in that she has engaged in an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional; and
2. under paragraph 1(1)34 of O. Reg. 856/93 in that she engaged in conduct unbecoming a physician.

RESPONSE TO THE ALLEGATIONS

Dr. Eskandar admitted the first allegation in the Notice of Hearing, that she engaged in an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional. Counsel for the College withdrew the second allegation in the Notice of Hearing.

FACTS AND EVIDENCE

The following Agreed Statement of Facts was filed as an exhibit and presented to the Committee:

1. Dr. Monira Naguib Eskandar is a community family physician practicing in Toronto, Ontario.

2. Dr. Eskandar was born in Egypt and received her medical degree from Cairo University in 1972. She subsequently received her medical license from the Egyptian Medical Syndicate and practiced medicine in Egypt until August 1991, at which time she left Egypt and came to Canada with her family.

3. In February 1995, Dr. Eskandar attained Canadian citizenship. She received a provisional license to practice medicine in Newfoundland and Labrador in June 2002, and a certificate of registration authorizing independent practice in Ontario in June 2004. From the period of June 2002 onward, Dr. Eskandar was in active medical practice, either in the province of Newfoundland and Labrador or in Ontario.

4. In her application for a certificate of registration authorizing independent practice in Ontario, Dr. Eskandar answered “No” to the question, “Have you ever discontinued your undergraduate medical education, post-graduate medical training, or medical practice for one year or longer?” Attached as Exhibit A [to the Agreed Statement of Facts] is a true copy of the application.

5. The same application included the following request: “In chronological order, list the names of every jurisdiction where you have practiced medicine, including all training appointments, since your graduation from medical school. For each period of practice, please provide the corresponding licence or registration number.” Dr. Eskandar responded as follows:

Jurisdiction	Nature of Practice	Dates (From/To)	Licence or Registration Number
Newfoundland Med. B.	GP	June 6/02 - Present	F09322
Egyptian Med. Syndicate	GP	Sept 1/73 - Present	member #22776 licence # 27774

See Exhibit A [attached to the Agreed Statement of Facts].

6. A reference letter submitted to the Newfoundland Medical Board stated that Dr. Eskandar “commenced practice as a General Practitioner at the Fawzy Hospital [in Cairo] from September 1, 1983 till present continuously without interruption.” Attached as Exhibit B [to the Agreed Statement of Facts] is a true copy of the letter.

7. Dr. Eskandar admits that the above information supplied to the CPSO and the Newfoundland Medical Board was not accurate. Specifically, the above information created an impression that Dr. Eskandar had been in continuous medical practice since receiving her Egyptian medical licensure, when in fact she ceased continuous medical practice after she came to Canada in 1991.

8. At the time of providing the above information, Dr. Eskandar maintained an active Egyptian medical license and Dr. Eskandar maintains that she returned to practice medicine in Egypt between 1991 and 2002 periodically.

9. Dr. Eskandar admits that she did not seek clarification from the College of Physicians and Surgeons of Ontario or the Newfoundland Medical Board concerning how to report her work history in her applications.

10. Dr. Eskandar admits that these actions constitute an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to paragraph 1(1)33 of O. Reg. 856/93 made under the *Medicine Act, 1991*.

FINDING

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts. Having regard to these facts, the Committee accepted Dr. Eskandar’s admission and found that she committed an act of professional misconduct in that she engaged in conduct relevant to the practice of medicine that, having regard to all the circumstances,

would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

PENALTY AND REASONS FOR PENALTY

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

The relevant penalty principles which guided the Committee in its deliberations were the protection of the public; the maintenance of public confidence in the integrity of the profession and the principle of effective self-regulation; the denunciation of wrongful conduct; specific deterrence of the member; general deterrence of the membership; and the rehabilitation of the member.

The Committee reviewed the evidence and considered the penalty proposed. In considering the penalty, the Committee was aware that the law requires that the joint submission be accepted unless to do so would be contrary to the public interest and would bring the administration of justice into disrepute.

Counsel for the College submitted that the proposed penalty was consistent with previous cases decided by this Committee, and more specifically, the cases cited in the Book of Authorities. While the Committee recognizes that it is not bound by previous decisions, these cases did provide some guidance. The case law establishes that in cases involving a finding of dishonest, obstructionist, or otherwise unethical behaviour, a comprehensive penalty is generally imposed, which can include a reprimand, a recording of the fact of the reprimand on the register, a suspension of the member's certificate of registration, costs, and a program of remediation.

The Committee was satisfied that the joint submission on penalty was appropriate and reflected the principles of protection of the public, specific and general deterrence, rehabilitation, and maintaining the integrity of the profession and public confidence in self-regulation. As noted in the *Tesher* decision, the Committee took into account that public trust in the medical profession is based, in part, on the assurance that physicians

are honest in all areas of their professional life. The Committee views misrepresentation as an extremely serious matter. The privilege of self-regulation requires, on the part of all members, absolute truthfulness and integrity in their dealings with the College.

The Committee believes that the reprimand is an appropriate penalty to express directly to Dr. Eskandar the gravity of her conduct, and to let future members know that failure to be truthful on registration applications will not be tolerated.

The Committee believes that this is an appropriate case in which to order costs, as per the tariff for a one-day hearing, as proposed in the joint submission.

ORDER

Therefore, on June 17, 2009, the Committee ordered and directed that:

1. Dr. Eskandar successfully complete, at her own expense, the College's Medical Ethics and Informed Consent Course on the next available date, and in any event within six months of the date of the Order, and to provide proof thereof to the College.
2. Dr. Eskandar appear before the panel to be reprimanded.
3. Dr. Eskandar pay to the College costs in the amount of \$3,650 within 30 days of the date of the Order.
4. The results of this proceeding be included in the register.

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