

**Indexed as: Ontario (College of Physicians and Surgeons of Ontario) v.
Varenbut, 2015 ONCPSD 40**

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

IN THE MATTER OF a Hearing directed
by the Inquiries, Complaints and Reports Committee of
the College of Physicians and Surgeons of Ontario
pursuant to Section 26(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. MICHAEL VARENBUT

PANEL MEMBERS:

**DR. R. MACKENZIE (CHAIR)
J. LANGS
DR. W. KING
P. PIELSTICKER
DR. P. GARFINKEL**

Hearing Date:	November 20, 2015
Decision Date:	November 20, 2015
Release of Written Reasons:	November 26, 2015

DECISION AND REASONS FOR DECISION

The Discipline Committee (the “Committee”) of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on November 20, 2015. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty and costs order with written reasons to follow.

THE ALLEGATION

The Notice of Hearing alleged that Dr. Michael Varenbut committed an act of professional misconduct:

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

RESPONSE TO THE ALLEGATION

Dr. Varenbut admitted to the allegation in the Notice of Hearing, that he 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.

THE FACTS

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

PART I – FACTS

1. Dr. Varenbut obtained his medical degree from the University of Toronto in 1991 and completed his residency in Family Medicine in 1993. He has specialized in the field of Addiction Medicine.
2. Between approximately 2005 and 2013, Dr. Varenbut held appointments at various times at the following hospitals and University:
 - Dryden Regional Health Centre;
 - Riverside Health Centre;
 - Mackenzie Health Richmond Hill;
 - Southlake Regional Health Centre;
 - University of Toronto;
 - Sunnybrook Health Sciences Centre; and
 - Women`s College Hospital.

A. Omissions on Annual Forms

3. Between 2005 and 2013, Dr. Varenbut failed to disclose, in certain applications for the renewal of privileges or appointment at a number of different institutions, that he had been the subject of College investigations in the previous year, or that restrictions had been imposed on his certificate of registration, where that information was required to be disclosed. Prior to completing the applications, Dr. Varenbut was not provided with specific advice on completing them or that the scope of disclosure requested can vary from year to year, and from one hospital to another. These omissions are detailed in the chart attached as Appendix “A” [to the Agreed Statement of Facts].
4. Dr. Varenbut did disclose in his applications, where appropriate, the existence of his College Discipline Committee finding.
5. Dr. Varenbut also provided his consent to allow the hospital/institution to obtain information from the College in relation to College matters, where this was sought.

6. Dr. Varenbut did not exercise his hospital privileges during the relevant time period and had no clinical patient responsibility in any of the hospitals/institutions. The appointments were obtained and maintained as a corollary to his teaching appointments or so that if a patient on methadone in the community required hospitalization, a physician qualified in methadone treatment would be available to provide a prescription for methadone while the patient was hospitalized.

B. Failure to Follow University Policy on Notification of Discipline Decisions

7. On February 19, 2013, Dr. Varenbut was found by the Discipline Committee of the College to have engaged in professional misconduct in relation to his failure to maintain the standard of practice of the profession arising out of a patient's access to care.
8. In February of 2013, Dr. Varenbut had an academic appointment in the Department of Family and Community Medicine at the University of Toronto. Dr. X was the Chair of the Department at that time.
9. According to the "Procedures Manual for *Policy for Clinical Faculty*" at the University of Toronto, decisions of the Discipline Committee are to be reported to the Chair of the Department within seven days.
10. In July of 2012, Dr. Varenbut reported the Discipline referral to his academic supervisor at the University of Toronto, Dr. Y. He also voluntarily relinquished his academic role and took a voluntary one year sabbatical, pending the outcome of the Discipline referral. Dr. Y provided a letter of support to be submitted to the Discipline Committee for consideration at the hearing on February 19, 2013, in which she confirmed that she was aware that her letter would be used in those proceedings.
11. On April 19, 2013, Dr. Varenbut received a letter from Dr. X, in which she expressed concern that he had not disclosed his discipline finding to her directly within seven days as required pursuant to the procedure manual. Prior to this letter, Dr. Varenbut had not notified Dr. X of the discipline finding.

PART II – ADMISSION

12. Dr. Varenbut admits the facts set out in paragraphs 1 to 11 above and admits that he engaged in professional misconduct by failing to provide complete and/or accurate information in a timely manner to the University and/or hospitals where he had an academic appointment and/or from whom he sought reappointment.
13. Dr. Varenbut admits that the conduct described above constitutes professional misconduct under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, S.O. 1991, c.30, in that he engaged in an act or omission relevant to the practice medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

FINDING

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

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 order, the elements of which included a three-month suspension, a recorded public reprimand and payment of costs to the College of a single hearing day at the tariff rate of \$4,460.

The Committee was reminded that the courts have directed that a jointly submitted penalty should be accepted unless the proposed penalty would be contrary to the public interest and would bring the administration of justice into disrepute. In this case, the Committee was in full agreement with the penalty proposed.

At the core of the privilege of self-regulation is the requirement to protect the public through regulation of the membership. The College must demonstrate to the public that regulations enacted and procedures adopted for its protection will be enforced and that noncompliance will be sanctioned.

All members of the profession should be aware that applications for annual renewal of a member's certificate of registration with the College, require complete and accurate reporting of offences, findings and settlements as well as any disciplinary action in other jurisdictions during the preceding year. Public institutions such as hospitals and universities have similar requirements which physicians must comply with. Physicians seeking hospital or university appointments or renewal of their privileges are required to report fully and accurately complaints, investigations, findings, restrictions and legal actions against them in the preceding year. Different institutions may have slightly different reporting obligations in the information they require. Dr. Varenbut failed in meeting this reporting requirement not once, but multiple times over several years, with multiple hospitals and the university where he taught. This failure is intolerable, even if inadvertent as submitted by his counsel. To disregard one's professional obligations through a lack of diligence and to mislead public institutions are serious matters.

A three-month suspension is a significant penalty, within the range established by previous decisions of this Committee. A public reprimand is also a significant penalty. They demonstrate to Dr. Varenbut, and to the profession and the public, that professional misconduct of this sort cannot and will not be tolerated.

Counsel submitted that Dr. Varenbut cooperated fully with the College's investigation. By admitting to the allegation, he avoided a lengthy contested hearing and spared witnesses having to testify. In the circumstances, limiting the award of costs to the College to the tariff amount for a single day (\$4,460), although representing a fraction of the true costs incurred, was accepted as appropriate by the Committee.

The Committee therefore made the following order:

ORDER

Therefore, having stated its findings of professional misconduct in paragraph 1 of its written order of November 20, 2015, the Committee ordered and directed on the matter of penalty and costs, that:

2. Dr. Varenbut appear before the panel to be reprimanded.
3. The Registrar suspend Dr. Varenbut's certificate of registration for a period of three (3) months commencing on November 21, 2015.
4. Dr. Varenbut pay to the College costs in the amount of \$4,460 within 30 days of the date of this Order.

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

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Reprimand Date:	November 20, 2015
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TEXT of PUBLIC REPRIMAND
Delivered November 20, 2015
in the case of the
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO
and
DR. MICHAEL VARENBUT

Dr. Varenbut, we have heard submissions from your counsel that your failure to disclose accurate information to the university and to multiple institutions was due to inadvertent oversight rather than a deliberate attempt to withhold the information. However, the record shows that this occurred on no less than fifteen occasions over a period of eight years. Regardless of your intent, this is an unacceptable default of your professional obligations as a member of this college.

The panel is also cognizant that you have been reprimanded by this committee before for failure to meet your professional obligations. We sincerely hope that, as your counsel has assured us, you will gain insight into the cause and ramifications of your misconduct and will never have reason to appear before us again. Thank you. This now concludes the hearing.