

**Indexed as: Ontario (College of Physicians and Surgeons of Ontario) v. Khuon,  
2019 ONCPSD 3**

**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. CHAUT KHUON**

**PANEL MEMBERS:**

**MR. P. GIROUX  
DR. T. MORIARITY  
DR. C. CLAPPERTON  
MR. J. LANGS  
DR. S. WOODER**

**COUNSEL FOR THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO:**

**MS. P. NG  
MS. A. BLOCK**

**COUNSEL FOR DR. KHUON:**

**MS. C. TOURIGNY**

**INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:**

**MR. R.W. COSMAN**

**Hearing Date: December 17, 2018  
Decision Date: January 24, 2019  
Written Decision Date: January 24, 2019**

## **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 December 17, 2018. At the conclusion of the hearing, the Committee released a written order stating its finding that Dr. Chaut Khuon committed an act of professional misconduct. In that Order, the Committee set out its penalty and costs order with written reasons.

### **THE ALLEGATION**

The Notice of Hearing alleged that Dr. Chaut Khuon committed an act of professional misconduct:

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

### **RESPONSE TO THE ALLEGATION**

Dr. Khuon admitted the allegation in the Notice of Hearing.

### **THE FACTS**

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

#### **PART I - FACTS**

##### **A. Dr. Chaut Khuon**

1. Dr. Khuon is a family physician who received his certificate of registration authorizing

independent practice in 2008.

2. At the relevant times, Dr. Khuon practiced family medicine in Ottawa, Ontario and practiced emergency medicine at the Gatineau Hospital in Gatineau, Quebec.

## **B. BACKGROUND**

3. On March 27, 2017, the Collège des Médecins du Québec (the CMQ) provided information to the College of Physicians and Surgeons of Ontario (the CPSO) regarding an inquiry conducted by the CMQ into Dr. Khuon. The inquiry by the CMQ resulted from a report by the Gatineau Hospital about four incidents involving Dr. Khuon's care of two adults and two pediatric patients in the emergency department. The incidents took place between March 16, 2014 and December 5, 2014. The CMQ stated that Dr. Khuon was no longer registered as an active member of the CMQ.

4. Upon receipt of the letter from the CMQ dated March 27, 2017, the CPSO noted that Dr. Khuon had not disclosed on his Annual Renewal that he was registered with the CMQ.

## **C. FAILURE TO DECLARE CMQ MEMBERSHIP AND HOSPITAL PRIVILEGES**

5. Dr. Khuon held an active certificate of registration in Quebec from 2000 to 2016.

6. Dr. Khuon failed to declare that he was registered with the CMQ or that he held hospital privileges in Quebec on his Annual Renewals with the CPSO in 2014, 2015 and 2016. A copy of Dr. Khuon's Annual Renewals from 2014, 2015 and 2016 are attached at Tab 1 to the Agreed Statement of Facts and Admission.

7. Prior to his Annual Renewal completed on May 9, 2014, Dr. Khuon had disclosed that he was registered with the CMQ on his Annual Renewals in 2010, 2011, 2012 and 2013. A copy of Dr. Khuon's Annual Renewals from 2010, 2011, 2012 and 2013 are attached at Tab 2 to the Agreed Statement of Facts and Admission.

8. Dr. Khuon's failure to declare on his Annual Renewals that he was registered with the

CMQ or had hospital privileges in Quebec coincided with the incidents at the Gatineau Hospital, and the inquiry into the incidents by the hospital and then the CMQ. Dr. Khuon resigned his privileges at the Gatineau Hospital in October 2015 and resigned from the CMQ in December 2016.

## **PART II - ADMISSION**

9. Dr. Khuon admits the facts at paragraphs 1-8 above, and admits that, based on these facts, he engaged in professional misconduct under paragraph 1(1)33 of O Reg. 856/93, in that he engaged in acts or omissions relevant to the practice of medicine that would be regarded by members as disgraceful, dishonourable or unprofessional by submitting inaccurate information to the College on his Annual Renewal Forms for 2014, 2015 and 2016, at the time he was the subject of inquiries into his care in Quebec.

## **FINDING**

The Committee accepted as correct all of the facts set out in the Agreed Statement of Facts and Admission. Having regard to these facts, the Committee accepted Dr. Khuon's admission and found that he committed an act of professional misconduct, in that he has engaged in conduct or an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

## **AGREED STATEMENT OF FACTS RELEVANT TO PENALTY**

The following additional facts were set out in an Agreed Statement of Facts Relevant to Penalty that was also filed as an exhibit.

**A. Investigation of Dr. Khuon's practice in Ontario**

1. On the basis of the information provided by the Collège des Médecins du Québec, the College conducted an investigation into Dr. Khuon's practice in Ontario.
2. The College retained an expert to opine on Dr. Khuon's family medicine practice. Dr. Khuon was not practicing Emergency Medicine in Ontario. The expert reviewed 25 charts, interviewed Dr. Khuon, observed clinical encounters between Dr. Khuon and five patients at his office, and conducted a follow-up phone call with Dr. Khuon.
3. The expert concluded that Dr. Khuon met the standard of practice of the profession, that Dr. Khuon did not display a lack of knowledge, skill or judgment, and that Dr. Khuon did not pose a risk of harm to patients.

**B. Undertakings entered into by Dr. Khuon in Ontario**

4. On June 7, 2018, Dr. Khuon entered into an Undertaking in lieu of the imposition of an Order pursuant to s. 25.4 of the Health Professions Procedural Code, which is Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Section 25.4 Undertaking").
5. The Section 25.4 Undertaking, which is in effect until the allegations referred to the Discipline Committee have been disposed of, provides that a Clinical Supervisor is to review all of Dr. Khuon's pediatric patient charts every month and to report to the College on a quarterly basis. A copy of the Section 25.4 Undertaking is attached at Tab 1 to the Agreed Statement of Facts Relevant to Penalty.
6. The Clinical Supervisor has met with Dr. Khuon and reviewed all of his pediatric charts on a monthly basis as set out in the Section 25.4 Undertaking. The report to date from the Clinical Supervisor indicates that Dr. Khuon is practicing to an acceptable standard in his care of pediatric patients, with some recommendations having been made.
7. Also on June 7, 2018, Dr. Khuon entered into a second Undertaking with the College. In that second Undertaking, Dr. Khuon undertook that he:

- a) will not engage in the practice of Emergency Medicine in Ontario;
- b) will complete an Individualized Education Plan (IEP) for pediatric patients;
- c) will complete the next available CHEO Annual Refresher Course in Pediatrics; and
- d) will undergo a reassessment of his practice in respect of his pediatric patients approximately one year following his completion of the IEP.

A copy of Dr. Khuon's second Undertaking dated June 7, 2018 is attached at Tab 2 to the Agreed Statement of Facts Relevant to Penalty.

8. Dr. Khuon completed the CHEO Annual Refresher Course in Pediatrics on November 9 and 10, 2018 and has completed the other components of the IEP. A reassessment of his practice in respect of his pediatric patients will accordingly take place in approximately one year.

9. Dr. Khuon cooperated with the College in the course of its investigation.

## **PENALTY AND COSTS ORDERS AND REASONS**

Counsel for the College and counsel for Dr. Khuon made a joint submission as to an appropriate penalty and costs order. The Committee understands that the law requires it cannot depart from a joint submission, unless the proposed penalty would bring the administration of justice into disrepute, or is otherwise not in the public interest (*R. v. Anthony-Cook* 2016 SCC 43). Neither of these conditions is present and the Committee accepted the joint submission.

For the years Dr. Khuon practised medicine in Quebec up to 2013, he reported his membership with the CMQ in his annual renewal form for his certificate of registration in Ontario. However, he failed to do so in 2014, 2015 and 2016, even though he continued to hold a certificate of registration in Quebec. Reporting is not optional. The College in its mandate to regulate the profession in the public interest must know where the member holds other certificates of registration and if problems have arisen there. The College is hampered in performing its role in the regulation of physicians if members are not transparent about their registration to practise in

other jurisdictions. Dr. Khuon failed to disclose that he was registered to practise in Québec in the years in which incidents had arisen, and had been the subject of an inquiry at the Gatineau Hospital and with the CMQ. These incidents had led to Dr. Khuon's resignation of his hospital privileges and his membership in the Quebec College. The Committee finds Dr. Khuon's failure to disclose his membership with the CMQ in these circumstances to be dishonest and manipulative, demonstrating a lack of integrity. It is a serious act of misconduct calling for a serious penalty.

A mitigating factor in this case is that Dr. Khuon has no prior discipline history in Ontario. Dr. Khuon admitted his misconduct, accepted responsibility and took steps to deal with the issues that arose from his misconduct in Quebec, while being compliant with an investigation into his practice in Ontario. All of these factors bode well for his rehabilitation.

The proposed penalty and costs order includes a reprimand, suspension, terms and conditions and the payment of costs by Dr. Khuon. It is the view of the Committee that the jointly proposed order satisfied the penalty principles that the Committee must consider. The two month suspension, as well as a reprimand, will serve as specific deterrents to Dr. Khuon so that he does not engage in similar behaviour in the future. The reprimand expresses the Committee's abhorrence of Dr. Khuon's conduct on behalf of the profession. The public will be protected because Dr. Khuon must complete an individualized course on ethics, which will assist with Dr. Khuon's rehabilitation. The penalty as a whole will serve as a general deterrent in reminding the members of the College that adhering to the rules of their governing body is necessary and if they do not comply, serious consequences ensue. The penalty will uphold the integrity of the profession and ensure that public confidence in the College's ability to regulate the profession in the public interest is maintained.

Several Committee decisions were filed as "like cases", and they indicate that the penalty in this case is proportional to the finding of misconduct and within the range of penalties imposed in similar cases.

In *Varenbut*, 2015, the physician failed to disclose on his renewal application for privileges or appointments at a number of hospitals and universities that he had been the subject of College investigations in the previous year or that he had restrictions imposed on his certificate of registration. That information was mandatory to be disclosed within a reasonable time frame. He was required to notify the Chair of his department of discipline findings within seven days and he did not do so. The Committee found that Dr. Varenbut's failure to disclose was intolerable, even if inadvertent. As a result of his misconduct, Dr. Varenbut received a reprimand, a suspension of three months and was required to pay hearing costs.

In *Hussein*, 2013, the physician provided untrue, incorrect or inaccurate information on his application for a certificate of registration with the College. He had not been in continuous practice as he said he had been. He was not practising medicine in Iraq between 1995 and 2000. He failed to disclose that he discontinued his medical practice for over one year. He declared that the answers to the questions in his application were true, complete and without intent to mislead. He made similar untrue and inaccurate statements in his application to the Newfoundland Medical Board. As a penalty for his misconduct, Dr. Hussein was reprimanded and had terms, conditions and limitations imposed on his certificate of registration. He was required to receive individualized instruction on professionalism and ethics, and costs were ordered to be paid by him.

In another case, *Vasic*, 2007, the physician was found to have been dishonest in not informing the College of false information on two certificates of registration renewal forms in 2004 and 2005. He had been found guilty of professional misconduct by the medical boards of two U.S. jurisdictions for similar acts of dishonesty. He did not inform the College that he had been disciplined by one U.S. licencing authority and that disciplinary action was pending before another U.S. licencing authority. Dr. Vasic denied the allegations and was found to have demonstrated no insight. Although the Committee did not find that his misconduct led to the conclusion that the member was ungovernable, they did find that a lengthy suspension was warranted in light of his lack of insight. Dr. Vasic's penalty consisted of a 12 month suspension of which 3 months would be suspended if Dr. Vasic completed an ethics course. He was ordered to pay costs.



As a mitigating factor in the subject case, Dr. Khuon showed insight by admitting his misconduct. The Committee found no indication that he was ungovernable. The penalty of a two month suspension is in line with the *Hussein* and *Varenbut* cases. Dr. Khuon's misconduct was found to be not as serious as that of Dr. Vasic and did not warrant a longer suspension. The requirements for a reprimand and ethics course are also consistent with previous cases. The penalty proposed was proportional to the seriousness of his misconduct, and an order for the payment of costs was reasonable.

In summary, the Committee finds Dr. Khuon's jointly submitted penalty and costs order to be appropriate and just.

## **ORDER**

The Committee stated its findings in paragraph 1 of its written order of December 17, 2018. In that order, the Committee ordered and directed on the matter of penalty and costs that:

2. Dr. Khuon attend before the panel to be reprimanded.
3. The Registrar suspend Dr. Khuon's certificate of registration for a period of two (2) months, commencing from December 31, 2018 at 12:01 a.m.
4. The Registrar place the following terms, conditions and limitations on Dr. Khuon's certificate of registration:
  - a. Dr. Khuon will participate in and successfully complete, within 6 months of the date of this Order, individualized instruction in medical ethics with an instructor selected by the College, with a report or reports to be provided by the instructor to the College regarding Dr. Khuon's progress and compliance.
5. Dr. Khuon pay costs to the College in the amount of \$6,000.00 within 30 days of the date of this Order.

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

**TEXT of PUBLIC REPRIMAND**  
**Delivered December 17, 2018**  
**in the case of the**  
**COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO**  
**and**  
**DR. CHAUT KHUON**

Dr. Khuon,

When an individual is granted a certificate of registration to practice medicine in Province of Ontario, there are certain criteria expected to be followed related to this privilege.

The physician is expected to behave in an honest and honourable manner to practice medicine in the best interest of the patient, and to abide by the regulations, rules, policies, and guidelines issued by the regulatory body.

The college makes clear in its annual renewal that the physician “acknowledges that it may be found as professional misconduct to provide false or misleading information to the CPSO” .

Accordingly in your annual renewals with the CPSO in 2014, 2015 and 2016, when you did not disclose you were practising in another jurisdiction, this was not an oversight or an administrative error. It was a deliberate attempt to deceive the college regarding some practice difficulties encountered in another jurisdiction. By failing to doing so you undermined the privilege of self-regulation and the requirement to protect the public through regulation of the membership.

We acknowledge that you are remorseful for these actions and you have agreed to various undertakings to improve your practise of medicine.

The practise of medicine is a privilege and not a right and we trust you will continue to bear that in mind in the time ahead.

*This is not an official transcript*