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**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 to the Regulated Health Professions Act, 1991,
S.O. 1991, c.18, as amended.

BETWEEN:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

and

DR. GEORGE EDWIN DONALD DAVIS

PANEL MEMBERS: DR. R. MACKENZIE (CHAIR)
DR. Y. deBUDA
DR. J. WATTS
A. MACKENZIE
R.J. SANDERS

HEARING DATE (S): OCTOBER 23, 2000

DECISION/RELEASED DATE: OCTOBER 23, 2000

DECISION AND REASONS FOR DECISION

A hearing was held before the Discipline Committee of the College of Physicians and Surgeons of Ontario with regard to allegations concerning Dr. G.E.D. Davis, on October 23, 2000, at Toronto. A Notice of Hearing was filed as an Exhibit, and the College proceeded with the allegation of professional misconduct as set out below.

ALLEGATIONS

It was alleged in the Notice of Hearing that Dr. Davis has committed an act of professional misconduct under clause 51(1) (a) of the *Health Professions Procedural Code* (the "Code"), which is schedule 2 to the *Regulated Health Professions Act, 1991*, in that he has been found guilty of an offence that is relevant to his suitability to practice. The particulars of the allegation were set out in a Schedule to the Notice of Hearing, as follows:

1. On October 2, 1997, Dr. Davis was found guilty of two charges of defrauding the Ontario Health Insurance Plan by the Ontario Court of Justice (General Division) in a proceeding held before Hon. Madam Justice Patricia German at the Metropolitan Toronto Court House at 361 University Avenue in Toronto. The fraud was committed by submitting false claims for psychiatric services that were in excess of the services that were actually rendered or performed for which the Ontario Health Insurance Plan remitted payment to Dr. Davis.

2. From August 1, 1986 until the following dates, Dr. Davis submitted accounts to, and received payments to which he was not entitled from the following patients in addition to the accounts he submitted to the Ontario Health Insurance Plan. The amounts are not precisely known at the present time but it is anticipated that they are for approximately the following amounts:

D.F.	\$4,735	January 19, 1994
C.M.	\$3,875	May 22, 1993
D.R.	\$7,030	April 11, 1994
S.R.	\$2,130	April 24, 1994
J.S.	\$4,485	April 11, 1994
Total:	\$22,255	

PLEA

Dr. Davis pleaded guilty to the allegation of professional misconduct as set out above. A further allegation of professional misconduct under paragraph 27.32 of Regulation 448 was withdrawn.

EVIDENCE

The facts relevant to the proceedings were submitted to the panel in a document styled "Consent Disposition" that contained agreed facts, a consent to a finding of professional misconduct and a joint submission as to penalty. Excerpts from the transcripts of the criminal trial involving Dr. Davis were attached as Appendices. The following facts were established.

Dr. Davis was born in 1924 and began his practice of medicine in 1951. He has been qualified as a specialist in psychiatry since 1956. He has no previous criminal or disciplinary record.

In the Ontario Court of Justice Dr. Davis admitted to submitting bills to the Ontario Health Insurance Plan in the amount of approximately \$20,000 for services which he had not rendered from January 1, 1991 up to and including October 28, 1992 and an additional amount of approximately \$10,000 for services which he had not rendered for the period from January 4, 1993 up to and including August 9, 1994. Dr. Davis further admitted that he had improperly billed five of his patients by billing them for what he termed "uninsured services" in the amount of \$22, 255 during a period commencing August 1, 1986 up to and including April 24, 1994.

In January of 1992, a statistical screening of Dr. Davis' billings was conducted by the Provider Services Branch of the Ministry of Health. This screening revealed that Dr. Davis had submitted an unusually high number of claims for individual and family psychotherapy. On many occasions, he billed in excess of fifteen hours in a single day. During the eighteen-month period ending June 1992, there were 260 dates on which fifteen or more hours of both individual or family psychotherapy had been billed.

On September 17, 1992, the Provider Services Branch of the Ministry of Health sent verification statements to 47 of Dr. Davis' patients. Responses were received from 24 patients, and eight

patients sent back a verification statement disputing the billings of the doctor. The billings submitted to OHIP for services rendered to these patients indicated that the vast majority of their therapy lasted 2 to 2½ hours. All of the above patients, except for one, indicated their sessions had lasted only one hour, and one patient indicated that she had no record for one of the dates for which the doctor had billed OHIP.

At this point, the Health Fraud Investigation Unit of the OPP commenced a formal investigation. The patients were interviewed, and they confirmed what was included in the verification statements, and the fraudulent billings were determined to total approximately \$30,000.

On August 1, 1986, the Health Care Accessibility Act was introduced in Ontario, which banned extra billings by physicians. Prior to that date, Dr. Davis had been an “opted-out” physician and billed patients directly for his services. On or about that date, Dr. Davis opted back into OHIP, but he continued to bill some of his patients directly after the introduction of the Act and asked them to make the payments to an incorporated company, the sole director of which was Dr. Davis. A list of patients that were so billed and the amounts paid are itemized in the Schedule to the Notice of Hearing, as set out above. The total amount of these improper billings was agreed to be \$22,255.

Dr. Davis pleaded guilty to, and was found guilty of, the charges of defrauding OHIP, as detailed above. The Court ordered a conditional discharge with probation for three years. The terms of the probation were that he make restitution to the Minister of Finance in the amount of \$30,000 and, to the patients who were billed in the amount of \$22,255. During the period of his probation, Dr. Davis was not allowed to submit claims to OHIP. He was required to bill patients directly and obtain an acknowledgement in writing from each patient confirming the services that were provided in each instance, and to provide the original of these acknowledgements to the Ministry of Health. Dr. Davis complied with the terms of his probation, which concluded September 30, 2000.

FINDING

The Committee considered the factual admissions made and found Dr. Davis guilty of professional misconduct as alleged in the Notice of Hearing.

PENALTY AND REASONS FOR PENALTY

The College and the defense presented a joint submission with respect to penalty. In arriving at our decision, the Committee was particularly cognizant of the fact that health care fraud is an escalating problem in society and governmental agencies must devote ever-increasing resources to cope with the problem. In recent judgements, the Committee has drawn attention to the fact that doctors who defraud the public health care system breach the trust not only of their patients, but also their professional colleagues and society at large. The Committee acknowledges that Dr. Davis has suffered significant personal humiliation as a result of his criminal prosecution and the conditions of his probation. However, the Committee unanimously agrees that a serious penalty is warranted, and is satisfied that the joint proposal submitted addresses the need to condemn such behaviour. Although the Committee has accepted the joint submission in this case, it considers that future similar cases may call for even stiffer penalties up to and including revocation.

The Committee therefore made the following penalty order:

1. The Registrar was directed to suspend Dr. Davis' certificate of registration for a period of three months, from November 15, 2000, to February 14, 2001.
2. Dr. Davis was directed to appear before the Discipline Committee to be reprimanded.
3. Dr. Davis is ordered to pay to the College costs in the amount of \$2500 before November 15, 2000.

Dr. Davis waived his right of appeal and the reprimand was administered by the Committee.