

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Ravi Kakar, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the names or any information that could identify Dr. Kakar's patients disclosed in the material filed at the hearing under subsection 45(3) of the Health Professions Procedural Code (the Code), which is Schedule 2 to the Regulated Health Professions Act, 1991.

Subsection 93(1) of the Code, which is concerned with failure to comply with these orders, reads:

Every person who contravenes an order made under ... section 45... is guilty of an offence and on conviction is liable,

(a) in the case of an individual to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence; or

(b) in the case of a corporation to a fine of not more than \$50,000 for a first offence and not more than \$200,000 for a second or subsequent offence.

Indexed as: **Ontario (College of Physicians and Surgeons of Ontario) v. Kakar, 2017 ONCPSD 8**

**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. RAVI KAKAR

PANEL MEMBERS:

**DR. E. STANTON (CHAIR)
MR. S. BERI
DR. P. CHART
MR. J. LANGS
DR. J. WATTERS**

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

MS. V. WHITE

COUNSEL FOR DR. KAKAR:

**MR. A. MATHESON
MS. K. TAYLOR**

INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:

MR. R. COSMAN

**Hearing Date: December 12, 2016
Decision Date: December 12, 2016
Release of Reasons Date: February 15, 2017**

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 12, 2016. At the conclusion of the hearing, the Committee delivered a written order stating its finding that Dr. Ravi Kakar committed an act of professional misconduct and is incompetent, and setting out its penalty and costs order, with written reasons to follow.

THE ALLEGATIONS

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

1. under paragraph 1(1)2 of Ontario Regulation 856/93 made under the Medicine Act, 1991 (“O. Reg. 856/93”), in that he has failed to maintain the standard of practice of the profession; and
2. under paragraph 1(1)33 of 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.

The Notice of Hearing also alleged that Dr. Kakar is incompetent as defined by subsection 52(1) of the Health Professions Procedural Code, which is Schedule 2 to the Regulated Health Professions Act, 1991, (“the Code”).

RESPONSE TO THE ALLEGATIONS

Dr. Kakar admitted the first and second allegations in the Notice of Hearing, that he has failed to maintain the standard of practice of the profession; and 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. Dr. Kakar also admitted that he is incompetent.

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

BACKGROUND

1. Dr. Ravi Kakar (“Dr. Kakar”) is a 57 year-old psychiatrist who graduated from the University of Delhi. He received his certificate of registration authorizing independent practice from the College of Physicians and Surgeons of Ontario (“the College”) on January 11, 1993.
2. At the times relevant to the facts below, Dr. Kakar practised at a private office in Markham, Ontario.

THE PATIENT A COMPLAINT

i) Dr. Kakar’s non-psychiatric care to patient A.

3. In October 2012, Dr. Kakar’s patient, patient A, complained to the College that Dr. Kakar, her psychiatrist, diagnosed her with gout arthritis and prescribed her a medication, Allopurinol, to which she had a severe allergic reaction resulting in serious side effects. A copy of her letter of complaint to the College is attached at Tab A of the Agreed Statement of Facts and Admission. A copy of Dr. Kakar’s chart for patient A is attached at Tab B of the Agreed Statement of Facts and Admission.
4. Patient A started seeing Dr. Kakar for psychiatric care on August 27, 2010. Dr. Kakar diagnosed her with depression, chronic pain syndrome, and post-traumatic stress disorder, and prescribed psychiatric medications for these conditions. Dr. Kakar also requisitioned blood work.
5. On September 29, 2010, Patient A attended for a follow-up appointment with Dr. Kakar to discuss her psychiatric conditions. At this visit, Dr. Kakar observed that

- blood work results showed that her uric acid levels were elevated and diagnosed her with gout arthritis. Dr. Kakar prescribed Allopurinol to treat her gout. There was no emergency or urgency requiring that Dr. Kakar treat patient A at that time.
6. Patient A filled the prescription for Alluporinol on October 8, 2010. After taking the medication, she developed side effects including a fever and cough, a generalized rash, and swelling of the mouth, lips and tongue.
 7. Patient A's side effects worsened into severe pain and swelling of the feet and an inability to walk. She was admitted to the Toronto Western Hospital on November 8, 2010, where she was diagnosed with a severe allergic reaction to the Allopurinol, Toxic Epidermal Necrolysis.
 8. The College retained a psychiatrist in private practice, Dr. Murray Erlich, to provide an opinion on the care provided by Dr. Kakar to patient A. A copy of his report dated May 21, 2013 is attached at Tab C of the Agreed Statement of Facts and Admission.
 9. Dr. Erlich opined that Dr. Kakar's care of patient A failed to meet the standard of practice and displayed a serious lack of knowledge and judgment. He drew the following conclusions:
 - Prescribing Allopurinol for gout arthritis was outside of Dr. Kakar's scope of practice and was inappropriate;
 - Dr. Kakar inappropriately minimized the seriousness of patient A's concerns after she experienced a reaction to Allopurinol;
 - Dr. Kakar's records of his treatment failed to meet the standard as the vast majority were illegible; and
 - Dr. Kakar's prescription of Allopurinol seriously harmed her and put her at life-threatening risk.
 10. The College obtained a further expert opinion on the care of patient A by Dr. Kakar from Dr. Peter Lee, who is a specialist in rheumatology. A copy of his report dated August 10, 2013 is attached at Tab D of the Agreed Statement of

Facts and Admission.

11. Dr. Lee noted in his report that Dr. Kakar's prescribing of Allopurinol to patient A failed to meet the standard of practice and demonstrated a lack of knowledge, skill and judgment. He said that Dr. Kakar's failure to conduct an adequate physical examination prior to the diagnosis and prescribing the medication was below standard, and that Dr. Kakar demonstrated a considerable lack of clinical skills and judgment.
 - ii) **Altering patient A's chart after receiving complaint and misleading the College during its investigation**
12. In his January 15, 2013, response to patient A's complaint, Dr. Kakar stated to the College that he prescribed Allopurinol for patient A at an October 28, 2010 appointment. He also provided a copy of his chart for patient A, which indicated that there was a discussion about Allopurinol on October 28, 2010, and that Dr. Kakar prescribed the medication on that day. A copy of his letter to the College is attached at Tab E of the Agreed Statement of Facts and Admission.
13. On February 6, 2013, patient A told the College that she filled the prescription for Allopurinol on October 8, 2010. Therefore, Dr. Kakar could not have written the prescription at her October 28, 2010 appointment.
14. Patient A's February 6, 2013 communication was provided to Dr. Kakar, who then admitted that he prescribed the Allopurinol on September 29, 2010, not in October as he had originally claimed in his response to the College. "I suspect that when I initially reviewed my chart to prepare my response, and saw that I had recorded my discussion of the risks of Allopurinol with [patient A] on October 28, 2012, I presumed that I had prescribed Allopurinol on that day," he stated. "I suspect that I prescribed the Allopurinol at the end of our visit on September 29 and had the discussion about the risks and benefits of the drug on that visit. Unfortunately... I neglected to record the fact that I also discussed the risks and benefits on that day." He said that in hindsight, he realized "it would have been preferable for me to note that the discussion had occurred one month earlier". He

stated that when he received patient A's complaint in the fall of 2012, he had very limited memory of what had happened in an appointment or appointments two years earlier in the fall of 2010. Therefore, he relied on his notes. A copy of Dr. Kakar's letter to the College dated March 26, 2013 is attached at Tab F of the Agreed Statement of Facts and Admission.

15. Subsequently, on May 10, 2013, Dr. Kakar's counsel wrote to the College and admitted that Dr. Kakar had actually added the note in patient A's chart about Allopurinol in October 2012, after he received the complaint from patient A, not in October of 2010, as he had claimed in his communication to the College.¹ A copy of the May 10, 2013 letter is attached at Tab G of the Agreed Statement of Facts and Admission.

THE PATIENT B COMPLAINT

16. In January 2013, the College received a complaint about the psychiatric care provided by Dr. Kakar to a 17-year-old young woman, patient B, in the fall of 2012.
17. The College retained an expert, Dr. Wendy Cole, a psychiatrist at Queensway Carleton Hospital, to provide an opinion on Dr. Kakar's care of patient B. A copy of Dr. Cole's report, dated October 9, 2013, is attached at Tab H of the Agreed Statement of Facts and Admission.
18. Dr. Cole concluded that Dr. Kakar failed to meet the standard of care in his record-keeping for patient B. Dr. Cole raised the following concerns in her report:
 - Dr. Kakar's original office notes are illegible and needed to be transcribed in order for her to read them;
 - Two of Dr. Kakar's progress notes, dated August 31, 2012 and September 29, 2012, were identical. This failed to reflect the true progression, or lack of progression, of patient B's response to treatment; and

¹ The letter from Dr. Kakar's counsel refers to the October 28, 2011 entry in Dr. Kakar's chart which is an error – the entry was dated October 28, 2010.

- There was nothing in Dr. Kakar's progress note of September 29, 2012, to provide any rationale for increasing the patient's dosage of Cymbalta to 30 mg three times a day. To fail to document any rationale for this increased dose falls below the standard of practice.
19. It was also determined that Dr. Kakar made an error in his September 29, 2012 entry in patient B's chart when he recorded a prescription for Cymbalta three times a day (t.i.d.), when he actually intended to prescribe it two times a day (b.i.d.), as written on the prescription.

THE SECTION 75.1(A) INVESTIGATION

20. Following the complaints regarding his care of patient A and patient B, the College retained Dr. Cole to review Dr. Kakar's care and treatment of 24 patients in his psychiatric practice.
21. Dr. Cole had the following concerns about Dr. Kakar's record-keeping, following her review of the charts and her interview of Dr. Kakar:
- Dr. Kakar's charts have insufficient documentation of the progress of his patients;
 - Dr. Kakar's charts fail to adequately identify the rationale for treatment modalities;
 - Dr. Kakar's charts fail to adequately document follow up with patients suffering from mood disorders regarding risk of self-harm or cognitive deficits; and
 - Dr. Kakar's medical reports lack contemporaneous information, are often repetitive in nature and sometimes contain information seen in the charts of other patients.
22. Dr. Cole reached the following overall conclusion:
- “It is my opinion during the interview Dr. Kakar showed sufficient knowledge, skills and judgment in the clinical practice of psychiatry to meet the standards of the profession. During our discussion he verbally demonstrated sufficient abilities regarding the treatment of patients in these three areas. However, while he appeared to have sufficient

knowledge and judgment regarding information which should be documented in charts, it is my opinion his current documentation skills do not meet the standard of practice.”

THE DR. D COMPLAINT

23. In August 2015, Dr. D, a psychologist, complained to the College regarding a psychiatric report Dr. Kakar prepared on behalf of patient C., an insured woman who sustained injuries in a car accident. A copy of Dr. D’s letter of complaint is attached at Tab I of the Agreed Statement of Facts and Admission.
24. Dr. D examined patient C on November 11, 2013 and completed a psychological report dated December 10, 2013. Dr. Kakar saw the same patient on December 27, 2013, and produced a psychiatric report several weeks later, on January 19, 2014. Approximately a year and a half later, in May 2015, Dr. D was asked to do a follow up report, and reviewed patient C’s file in order to do so. In the file, he found the report of Dr. Kakar in relation to patient C, which contained extensive sections that were copied from Dr. D’s initial report, with virtually no changes.
25. Dr. D’s report dated December 10, 2013 is attached at Tab J of the Agreed Statement of Facts and Admission. Dr. Kakar’s report regarding the same individual dated January 19, 2014 is attached at Tab K of the Agreed Statement of Facts and Admission. A chart comparing the two reports is further attached at Tab L of the Agreed Statement of Facts and Admission.
26. Dr. Kakar said that when he was asked to provide a report, he reviewed the medical brief, which included Dr. D’s report, in preparation for his independent psychiatric evaluation of the patient. He said he used Dr. D’s report as a guide to his interview and as a means of obtaining an accurate and detailed history from the patient.

PART II – ADMISSION

27. Dr. Kakar admits the facts specified above and admits that, based on these facts:

- (a) He has failed to maintain the standard of practice of the profession contrary to paragraph 1(1)2 of Ontario Regulation 856/93 (“O. Reg. 856/93”) in respect of:
 - a. His record-keeping;
 - b. his non-psychiatric care of patient A; and
 - c. his psychiatric assessment report for patient C..
- (b) He has displayed incompetence as defined by subsection 52(1) of the Health Professions Procedural Code in respect of:
 - a. His non-psychiatric care of patient A.
- (c) 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, contrary to paragraph 1(1)33 of O. Reg. 856/93, in respect of:
 - a. Practising outside the scope of his expertise in relation to patient A;
 - b. altering patient A’s chart after receiving her letter of complaint;
 - c. misleading the College regarding his having altered patient A’s chart; and
 - d. repeating portions of another professional’s report into his own third party medical report and failing to indicate the source of the information.

FINDINGS

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. Kakar’s admission and found that he committed an act of professional misconduct

1. under paragraph 1(1)2 of Ontario Regulation 856/93 made under the Medicine Act, 1991 (“O. Reg. 856/93”), in that he has failed to maintain the standard of practice of the profession; and
2. under paragraph 1(1)33 of 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.

and found him incompetent under subsection 52(1) of the Code in that his care of patients displayed a lack of knowledge, skill or judgment of a nature or to an extent that demonstrates that he is unfit to continue to practise or that his practice should be restricted.

AGREED STATEMENT OF FACTS ON PENALTY

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

1. Dr. Kakar is a 58-year-old psychiatrist who practises in Markham, Ontario. Dr. Kakar graduated from the University of Delhi and has had an independent practice certificate in Ontario since 1993. He is married and has three children.

Dr. Kakar’s Health

2. During 2012 and 2013, Dr. Kakar’s health was impacted by a series of stressors:
 - a) In June of 2012, Dr. Kakar underwent an appendectomy, which ultimately led to a diagnosis of adenocarcinoma. The cancer was treated surgically by hemicolectomy, followed by systemic chemotherapy in the fall of 2012.
 - b) During his fifth cycle of chemotherapy in late 2012, Dr. Kakar began experiencing a number of side effects at the time, including, but not limited to temporary neurological side effects. These side effects resulted in a hospitalization for an infection and severe dehydration. As a result, on November 8, 2012 and in consultation with his treating physicians, Dr. Kakar

decided to take a leave of absence from his practice. Dr. Kakar continued chemotherapy until December 12, 2012, following which he had a period of convalescence before resuming his practice on January 14, 2013.

- c) In December 2011, Dr. Kakar's father suffered a myocardial infarction in India. Partly due to his own illness, Dr. Kakar was unable to travel to see him. While Dr. Kakar was undergoing chemotherapy, two other close relatives also suffered myocardial infarctions. In addition, Dr. Kakar experienced stressors related to his adult children who lived at home.
- d) In mid to late fall of 2013, Dr. Kakar suffered from a situational depression, and on February 25, 2014, he signed an Undertaking with the College to cease practising medicine. This Undertaking was in effect until January 22, 2015.

Practice Restriction

- 3. Pursuant to an undertaking dated October 23, 2013, which he executed after receiving the complaint of patient A, Dr. Kakar has publicly restricted his practice to that of psychiatry only. A copy of the undertaking is attached at Tab 1 of the Agreed Statement of Facts on Penalty.

Practice Monitoring

- 4. Pursuant to an undertaking dated February 10, 2016, which he executed in lieu of a s. 37 Order, Dr. Kakar has been practising under supervision since this matter was referred to discipline. The reports of the practice monitor dated April 8 and June 27, 2016 are attached at Tab 2 of the Agreed Statement of Facts on Penalty.

History with the College

- 5. In June of 2009, Dr. Kakar entered into an undertaking with the College which required among other things, that he:
 - a) Practise under the guidance of a clinical supervisor;
 - b) Complete courses in pharmacological monitoring, assessment of suicide, communication skills and record keeping; and
 - c) Attend psychiatric rounds every two months for one year.

The undertaking resolved an investigation into Dr. Kakar's standard of practice which was initiated as a result of a public complaint. A copy of the undertaking is attached at Tab 3 of the Agreed Statement of Facts on Penalty.

6. In May of 2006, the Complaints Committee issued a verbal caution regarding Dr. Kakar's care of a patient, and in particular, regarding the preparation of third party reports regarding the patient's mental state and ability to care for his daughter. A copy of the May 17, 2006 decision of the Complaints Committee is attached at Tab 4 of the Agreed Statement of Facts on Penalty.

PENALTY AND REASONS FOR PENALTY

Counsel for the College and counsel for Dr. Kakar made a joint submission as to an appropriate penalty and costs order. The proposed order included a six month suspension, extensive terms and conditions on his certificate of registration, and educational requirements. The proposed penalty order also included a reprimand and costs payable to the College of \$5,000.00 within 30 days of the order.

The Committee was aware of the court's direction that a joint submission should be accepted unless the proposed penalty would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.

The Committee considered the general principles applicable to the determination of a penalty. In this matter, denunciation of the misconduct, specific and general deterrence, and maintenance of public confidence in the profession are of particular importance. The penalty order must also ensure protection of the public and be proportional to the misconduct found by the Committee.

After review, the Committee accepted the proposed penalty as an appropriate sanction in this matter. The reasons for its decision are set out below.

Analysis

The nature of Dr. Kakar's misconduct was not isolated to one aspect of his practice. The Committee found extensive shortcomings including exceeding his scope of practice, a lack of honesty and integrity, and significant deficiencies in his recordkeeping practices.

Nature of the Misconduct

Scope of Practice

Dr. Kakar is a specialist in psychiatry. As such, when he prescribed Allopurinol for a presumed diagnosis of gout arthritis for patient A, he was clearly practising outside his area of competence. Dr. Kakar neither performed nor recorded a physical examination on patient A on September 29, 2010, when he prescribed this medication. Dr. Kakar should have been aware that he lacked the knowledge and experience to diagnose and correctly manage this problem. Indeed, his actions resulted in patient A developing a serious and life-threatening allergic reaction requiring hospitalization. Dr. Kakar exhibited seriously flawed judgment when he inappropriately diagnosed patient A with gout arthritis and then improperly prescribed Allopurinol.

Given Dr. Kakar's serious lack of knowledge and judgment outside his psychiatric practice, a condition on his certificate of registration which restricts his practice to psychiatry, is necessary. Furthermore, a significant suspension is appropriate to achieve specific deterrence. Unlike a lack of knowledge or skill, a lack of judgment in a physician is difficult to remediate. A suspension of six months is intended to communicate to Dr. Kakar that such misconduct will not be tolerated. The message to the profession is that serious consequences follow serious misconduct.

Neither the health care system nor patients are well-served when specialists practise outside their scope of practice. The public and the profession expect those who are knowledgeable and highly-skilled to limit their practice accordingly. This ensures safe practice and effective utilization of health care resources.

Honesty and Integrity

The Committee was troubled by the dishonesty Dr. Kakar demonstrated when he repeatedly informed the College that he had prescribed Allopurinol on certain dates, when this was not the case. Dr. Kakar eventually had his lawyer respond to the College with a truthful iteration of events. It was of concern to the Committee as well that Dr. Kakar attempted to excuse his behaviour. These actions impeded the College's investigation.

Dr. Kakar compounded his misconduct by falsifying the medical record to state that he had prescribed Allopurinol on October 28, 2010 when he had actually done so a month earlier. Dr. Kakar falsified this record after hearing about his patient's complaint in 2012.

In another instance, Dr. Kakar impugned his own integrity by extensively copying the report of a psychologist without attribution and passing this as his own medical assessment.

These actions demonstrate fundamental character deficiencies. The Committee, the profession, and the public expect more from physicians. Such behaviour is not consistent with proper medical practice. The appropriate penalty requires the imposition of a lengthy suspension, reprimand, and protective terms on Dr. Kakar's certificate of registration.

Medical Recordkeeping

An example of Dr. Kakar's medical records was put before the Committee. These records were, for the most part, illegible. The expert evidence of Dr. Cole points out that Dr. Kakar's medical records lacked a description of progression of treatment and had other serious omissions. Deficiencies included a lack of prescribing rationale, insufficient documentation, repetitive reports, a medication error, and lack of contemporaneous information. This speaks to a carelessness and lack of necessary diligence on Dr. Kakar's part.

These deficiencies are serious and must be addressed. The Committee requires that Dr. Kakar will make significant changes and incorporate them into future practice. The

Committee noted that Dr. Kakar has previously taken remedial training in recordkeeping. The added medical ethics course should reaffirm his professional obligation with respect to the integrity of his recordkeeping. A period of clinical supervision and a reassessment nine months after completion of clinical supervision will ensure that necessary improvement has been achieved and sustained.

Given the breadth and seriousness of the misconduct noted above, the Committee was of the view that the proposed penalty of a six month suspension, a reprimand, and strict terms and conditions on Dr. Kakar's certificate of registration that include restrictions in practice, a 12 month period of clinical supervision, education in ethics, and education in use of third party records were all required and appropriate. This penalty order satisfies the principle of proportionality.

Prior History with the College

Dr. Kakar had no prior discipline history. However, in May 2006, Dr. Kakar received an oral caution relating to a case which had a tragic outcome. There were a number of issues raised, including his clinical notes and a lack of proper and thorough assessments. It is of concern to the Committee that elements of Dr. Kakar's inadequate record keeping practices at that time are repeated in the current case.

In October 2009, Dr. Kakar signed an undertaking agreeing to practise under the guidance of a clinical supervisor. This resolved questions which had arisen about his standard of practice. In addition, he undertook to complete remedial education in a number of areas including suicide risk, laboratory monitoring of patients on mood stabilizers, recordkeeping, and communication.

Aggravating Factors

Dr. Kakar's errors in judgment were significant. He exceeded his scope of practice causing harm; he falsified a medical record; he repeatedly misled College investigators; he incorporated another's professional assessment as his own; and he failed to maintain the standard of practice in recordkeeping. Dr. Kakar has widespread deficiencies which

need to be addressed in the penalty terms. Some of the past concerns persist which illustrate failure after attempted remediation.

These are serious aggravating factors. The Committee requires and expects Dr. Kakar to improve his practice and also to demonstrate sustained improvement if he is to continue to practice medicine.

Mitigating Factors

Dr. Kakar has admitted and taken responsibility for his misconduct. In doing so, he has saved witnesses the need to testify at a contested hearing. To a degree, the Committee accepted that Dr. Kakar has demonstrated insight by signing an undertaking to restrict his practice (October 23, 2013) and to practise under supervision (February 10, 2016).

The Committee noted that during the time Dr. Kakar was communicating with the College in 2013, he was suffering from a number of serious health problems, including cancer, for which he received aggressive chemotherapy.

The Committee reviewed a number of character reference letters in support of Dr. Kakar. In the face of the evidence of misconduct before it, the Committee gave them little weight. However, reports from Dr. Myran, Dr. Kakar's current supervisor, were encouraging and suggest that Dr. Kakar's medical record keeping has improved substantially.

Case Law

A number of cases were put before the Committee. None of these cases contain all the elements of misconduct exhibited by Dr. Kakar. What can be taken from these cases is that a suspension and terms are typical components of a penalty order when misconduct includes misleading the College, misrepresentation and altering charts, poor recordkeeping, and failing to maintain the standard of practice of the profession.

Conclusion

After careful consideration, the Committee accepted as appropriate the penalty proposed jointly by the parties. Dr. Kakar's misconduct was serious and this is reflected in a six month suspension. Both the suspension and the reprimand will serve as a significant specific and general deterrent. The terms and conditions imposed on Dr. Kakar's certificate of registration address his knowledge shortfall and deficient professional ethics. A period of supervision and reassessment lend assurance that in future Dr. Kakar will practice within his scope and will maintain the standard of practice. The public is thereby protected from future misconduct.

ORDER

On December 12, 2016, the Committee delivered a written order stating in paragraphs 1, 2, and 3, its findings of professional misconduct and incompetence. The Committee ordered and directed on the matter of penalty and costs that:

4. Dr. Kakar to attend before the panel to be reprimanded.
5. The Registrar suspend Dr. Kakar's certificate of registration for a period of six (6) months commencing January 1, 2017.
6. The Registrar impose the following terms, conditions and limitations on Dr. Kakar's certificate of registration:
 - a. Dr. Kakar's practice shall be restricted to psychiatry only.
 - b. Dr. Kakar shall not see more than 18 patients in any 24-hour period. Dr. Kakar will also maintain a log of all patient encounters in the form attached to this Order as Appendix "A" (the "Patient Log") and will submit the Patient Log to the College on a monthly basis until the reassessment referred to in paragraph 6(vi) below has been completed, and the results of the reassessment have been considered by the ICR Committee. Thereafter, Dr. Kakar shall produce the Patient Log at any

time upon request of the College.

- c. Dr. Kakar shall retain a College-approved clinical supervisor or supervisors (the “Clinical Supervisor”), who will sign an undertaking in the form attached hereto as Appendix “B.” For a period of at least twelve (12) months commencing on the date Dr. Kakar returns to practice following the suspension of his certificate of registration, Dr. Kakar may practise only under the supervision of the Clinical Supervisor and will abide by all recommendations of his Clinical Supervisor with respect to his practice, including but not limited to practice improvements, practice management, third party report writing, and continuing education. Clinical supervision of Dr. Kakar’s practice may end after a minimum of twelve (12) months, only upon the recommendation of the Clinical Supervisor and, in its discretion, approval by the College. Clinical supervision of Dr. Kakar’s practice shall contain the following elements:
 - i. Dr. Kakar shall facilitate review by the Clinical Supervisor of fifteen (15) patient charts per month and will meet with the Clinical Supervisor at least once a month to discuss his care of patients; and
 - ii. Dr. Kakar will have all third party reports as defined in the College Policy Third Party Reports, a copy of which is attached as Appendix “C” to this Order, reviewed and approved by the Clinical Supervisor before they are provided to the third party. Before Dr. Kakar provides the report to the party requesting it, he must ensure the Clinical Supervisor has approved and has indicated such approval by personally affixing his/her signature on the report. Dr. Kakar will also maintain a log with the name of each patient for whom a third party report is requested, the date he saw the patient, the date the report was sent to the Clinical Supervisor for approval, the date it was approved by the Clinical Supervisor, and the date it was sent to the third party, in the form

attached to this Order as Appendix “D” (the “Third Party Report Log”). Dr. Kakar will provide the Third Party Report Log to the Clinical Supervisor each time they meet. He will also provide the original Third Party Log to the College upon request. This restriction will remain in place until the reassessment referred to in paragraph 6(vi) below has been completed, and the results of the Reassessment have been considered by the ICR Committee.

- d. Dr. Kakar shall successfully complete and provide proof thereof to the College within six (6) months of the date of the Order:
 - i. Education in ethics acceptable to the College; and
 - ii. Education in third party report writing acceptable to the College.
- e. If Dr. Kakar fails to retain a Clinical Supervisor as required above or if, prior to completion of Clinical Supervision, the Clinical Supervisor is unable or unwilling to continue in that role for any reason, Dr. Kakar shall within twenty (20) days retain a new College-approved Clinical Supervisor who will sign an undertaking in the form attached hereto as Appendix “B,” and shall cease to practise until the same has been delivered to the College.
- f. Approximately nine (9) months after the completion of Clinical Supervision, Dr. Kakar shall undergo a reassessment of his practice (the “Reassessment”) by a College-appointed assessor (the “Assessor”). The Reassessment may include a review of Dr. Kakar’s patient charts, direct observations and interviews with staff and/or patients, and any other tools deemed necessary by the College. The Reassessment shall be at Dr. Kakar’s expense and he shall co-operate with all elements of the Reassessment. Dr. Kakar shall abide by all recommendations made by the Assessor subject to paragraph 6(vii) below, and the results of the Reassessment will be reported to the College and may form the basis of further action by the College.

- g. If Dr. Kakar is of the view that any of the Assessor's recommendations are unreasonable, he will have fifteen (15) days following his receipt of the recommendations within which to provide the College with his submissions in this regard. The Inquiries Complaints and Reports ("ICR") Committee will consider those submissions and make a determination regarding whether the recommendations are reasonable, and that decision will be provided to Dr. Kakar. Following that decision Dr. Kakar will abide by those recommendations of the Assessor that the ICR Committee has determined are reasonable
- h. Dr. Kakar shall consent to sharing of information among the Assessor, the Clinical Supervisor, the College, and any education providers under paragraph 6(iv) above as any of them deem necessary or desirable in order to fulfill their respective obligations.
- i. Dr. Kakar shall inform the College of each and every location where he practises, in any jurisdiction (his "Practice Location(s)") within fifteen (15) days of this Order and shall inform the College of any and all new Practice Locations within fifteen (15) days of commencing practice at that location.
- j. Dr. Kakar shall cooperate with unannounced inspections of his practice and patient charts by a College representative(s) for the purpose of monitoring and enforcing his compliance with the terms of this Order.
- k. Dr. Kakar shall consent to the College making appropriate enquiries of the Ontario Health Insurance Plan and/or any person who or institution that may have relevant information, in order for the College to monitor and enforce his compliance with the terms of this Order.
- l. Dr. Kakar shall be responsible for any and all costs associated with implementing the terms of this Order.
- m. Dr. Kakar shall comply with the College's Policy on Practice Management Considerations for Physicians Who Cease to Practise, Take

an Extended Leave of Absence or Close Their Practice Due to Relocation, in respect of his period of suspension, a copy of which is attached hereto as Appendix "E".

7. Dr. Kakar pay to the College costs in the amount of \$5,000.00, within thirty (30) days of the date of this Order.

At the conclusion of the hearing, Dr. Kakar 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 12, 2016
in the case of the
COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO
AND
DR. RAVI KAKAR

Dr. Kakar, it is always unfortunate when a member of our profession appears before this Committee. We are dismayed by the nature and extent of your misconduct. The findings of today's hearing are substantial and very serious. While it is your first appearance before the Discipline Committee, it is not the first time that serious issues concerning your practice were raised at the College.

You not only failed to maintain the standard of practice but also have been found to be incompetent. Sadly, your decision to treat a patient outside your scope of practice resulted in significant harm to your patient. As a result, you have not only disgraced yourself but also the profession as a whole.

You also demonstrated a lack of integrity. You altered a medical record for a patient after you received notification of a complaint against you. In preparing a patient report you also copied extensively without attribution from another healthcare professional's report on the same patient. Finally, you demonstrated dishonesty in your dealings with the College. You deliberately mislead the College on more than one occasion during their investigation of your practice. This cannot and will not be condoned or tolerated by the profession or the public. Honesty in dealing with your College as your regulator is essential to self-regulation and protection of the public. In regard to the medical record keeping, there is no excuse for records being illegible, incomplete or inaccurate. The medical record is an integral part of providing patient care.

Dr. Kakar we hope you have learned from this experience and that you will never appear before this Committee again.