

## **COLLEGE OF PHYSICIANS AND SURGEONS OF NOVA SCOTIA**

### **SUMMARY OF DECISION OF INVESTIGATION COMMITTEE "C" DR. JALAL BAGHAE**

Investigation Committee "C" of the College of Physicians and Surgeons of Nova Scotia concluded its investigation into a complaint against Dr. Jalal Baghaee by decision rendered August 6, 2015. The complaint involved allegations of misrepresentation of information on Dr. Baghaee's assessment and licensing applications with the College. The Investigation Committee resolved the matter by way of an informal resolution, whereby Dr. Baghaee agreed to have his licence to practice medicine revoked. The Committee further agreed through the informal resolution that if Dr. Baghaee satisfied the College that he met all criteria for the issuing of a new Defined Licence, he would be eligible for a new Defined Licence after the expiration of a minimum 3 month period.

A summary of the complaint and the informal resolution accepted by the Investigation Committee are set out below:

#### **Overview of Complaint, Response and Process of Committee**

Dr. Jalal Baghaee is a physician licensed to practice family medicine in Nova Scotia since 2012. Dr. Baghaee holds a Defined Licence and practises in Parrsboro.

Dr. William Lowe, Deputy Registrar, became aware of concerns that Dr. Baghaee may have provided false information regarding his training and clinical experience on his application to CAPP (Clinician Assessment for Practice Program) and subsequently on his application for licensure. The CAPP program was designed to assess internationally trained physicians with specified family practice experience, and to assist such physicians in obtaining family practice positions in underserved areas of Nova Scotia. Dr. Lowe and Dr. Graham Bullock, Medical Director, Physician Performance met with Dr. Baghaee to review these concerns on January 22, 2015.

Dr. Baghaee acknowledged he had intentionally not provided information on his curriculum vitae or application about his pediatric training from 1996-2000. He falsely indicated on his application that this time was spent in general practice. He also acknowledged that he did not include reference to his pediatric practice from 2000-2007.

Dr. Baghaee confirmed to Drs. Lowe and Bullock that he had trained as a pediatrician in Iran. He acknowledged being in pediatric residency during the time his application indicated he was practising family medicine. Dr. Baghaee explained to Drs. Lowe and Bullock his reasons for this dishonesty. He assumed that had he been truthful in his application, he would not have been deemed eligible for CAPP.

Dr. Lowe pointed out to Dr. Baghaee that the information he provided with his application was followed by a declaration signed by him that all the information in his application was correct and that any misrepresentation either by what was stated or what was left unstated could be the basis for a revocation of licence.

Following this meeting, Dr. Lowe forwarded this information to Dr. Grant, Registrar and CEO who initiated this complaint.

The criteria for eligibility to the CAPP program includes a minimum of one year post graduate training with at least three years of family practice experience during the five years prior to application.

As Deputy Registrar, Registration, Dr. Lowe oversees the administration of CAPP. He would routinely make decisions regarding eligibility for entrance to CAPP based on reviewing a candidate's qualifications.

Dr. Lowe provided a letter to the Committee indicating that had he been made aware of the dishonesty at the time of application, Dr. Baghaee would not have been accepted into CAPP.

Dr. Lowe further indicated that, had Dr. Baghaee's application been truthful, it would have prompted further inquiry.

Dr. Grant, in his letter of complaint, advised the Committee that based on Dr. Baghaee's admissions to Dr. Lowe and Dr. Bullock, it is clear that his applications to the College were strategically dishonest.

Investigation Committee C reviewed the complaint on March 3, 2015 prior to receiving Dr. Baghaee's formal response. At that time, the Committee felt that an interim suspension was warranted based on concerns of competence to practice medicine and questionable character.

Dr. Baghaee responded to the complaint on March 25, 2015. Dr. Baghaee apologized to Dr. Grant and the College and admitted misrepresenting his training and experience on his application, attributing the misrepresentations to a serious error in judgement.

In his response to the College, Dr. Baghaee advised the Committee that he moved to Canada with his wife in 2007. He immediately began preparing for the required examinations to become licensed to practice medicine. He reports he and his wife wanted to raise a family in a safe environment. Dr. Baghaee reports that after three years in Canada their financial situation became extremely difficult.

Dr. Baghaee states that prior to completing the CAPP materials in 2010/2011 he was warned by many internationally trained physicians that the CPSNS was only accepting family doctors, not specialists. Accordingly, he perceived he would likely be rejected from CAPP if he reported any speciality training or speciality work other than family medicine.

Dr. Baghaee believes he is well trained in family medicine, and that this was so at the time of his application to CAPP. He reported that he worked exclusively as a family physician during 1994-95; and worked as both a family physician and a pediatrician during 1999 to 2005. He states that from 2005-2007 he worked approximately twenty percent of his time with adult patients in an emergency room setting as a pediatrician. He also advised the Committee of his belief that while pediatrics is a specialty practice, it closely compares to and overlaps with family medicine. He further advised the Committee that the College of Family Physicians of Canada considers one year of pediatric residency equal to one year of practice in the field of family medicine. He also provided letters of support and evaluations which document his competency in Family Medicine.

## **INTERIM DECISION**

After interviewing Dr. Baghaee in April, 2015, Investigation Committee "C" reviewed all information received by it and noted that Dr. Baghaee had been cooperative and forthcoming in the proceedings to date. The Committee noted that Dr. Baghaee had admitted to dishonesty on his applications to CAPP and for licensure.

There can be no doubt the dishonesty was strategic and wilful. Dr. Baghaee admitted as much in his discussion with Drs. Lowe and Bullock, and confirmed so when before the Committee. He withheld information that he felt would preclude him from CAPP and, in its place, provided untrue information that he felt would further his application.

Above Dr. Baghaee's signature on his application for licensure, the following language appears:

I understand that I am deemed not to have satisfied the requirements and qualifications for registration/licensure if, in connection with this application or past application, I have made a false or misleading representation, either because of what was stated or left unstated and that on that basis, my licence may be revoked.

Similar language can be found on the application to CAPP.

The Committee noted that, when applying for a pediatric position in Alberta in 2011, Dr. Baghaee made full disclosure of his specialty training. He prepared a CV for purposes of his Alberta application, which differs materially from the CV he prepared for purposes of his first application to CAPP in Nova Scotia in 2010, and later in 2011.

The dishonesty went undetected. After good performance on entrance exams, Dr. Baghaee was admitted to CAPP and entered practice in Parrsboro in 2012. The evidence before the Committee was entirely consistent that Dr. Baghaee is a reasonable and safe practitioner, practising within the standards of the profession. Based on College evaluations and the submissions of Dr. Baghaee, the Committee is satisfied that Dr. Baghaee is competent to practice family medicine.

The interim suspension issued by this Committee on March 3, 2015 was premised on concerns about both competence and character. The Committee determined that while there are no competence concerns remaining following the investigation, the question of character was still outstanding. The Committee determined that the interim suspension should be continued until a final decision on the compliant had been rendered. It was the view of the Committee that while there were no competence concerns respecting Dr. Baghaee, the profession would be harmed by lifting an interim suspension, such that the continuing suspension was required prior to the final decision being rendered.

The Investigation Committee stated that the College exists in order to serve and protect the public interest in the practice of medicine, preserve the integrity of the medical

profession, and maintain the confidence of the public and the profession in the ability of the College to regulate the practice of medicine.

In the view of the Committee, this matter threatened the integrity of the medical profession, as without the continuation of the suspension pending a hearing, Dr. Baghaee continued to be rewarded for his dishonesty through an ongoing ability to practice medicine. Both the public and the profession's confidence in the College's ability to regulate, is also brought into play by the facts of this matter, which in turn also threaten the integrity of the profession as a whole. It raises questions of fairness and justice. The Committee recognizes that, at least to some extent, Dr. Baghaee has been rewarded already for an effective and strategic misrepresentation. Will this invite other such applications? Were other appropriately qualified candidates disadvantaged by Dr. Baghaee's dishonesty?

But for the dishonesty, Dr. Baghaee would not have been licensed. With the integrity of the profession and confidence in the College's ability to regulate at issue, the Committee was not prepared to return Dr. Baghaee to practise with knowledge of his dishonesty, pending a final disposition of the complaint. Accordingly, the interim suspension was continued.

Following the continuation of the interim suspension, the Committee met to consider an informal resolution advanced by the College and Dr. Baghaee. The Committee determined that it would accept the following terms of the informal resolution:

1. Dr. Baghaee's Defined Licence, previously issued by the College as a result of misrepresented information provided by Dr. Baghaee, is revoked effective the date of the initial suspension of his licence on March 3, 2015.
2. In the event Dr. Baghaee satisfies the College that he meets all criteria for the issuing of a new Defined Licence under the *Medical Act* and its regulations based on his truthful completion of the application for licensure, he shall be eligible for a new Defined Licence no earlier than June 3, 2015.
3. Dr. Baghaee is required to have an interview with Dr. William Lowe, Deputy Registrar, prior to the issuing of a Defined Licence, to satisfy Dr. Lowe that all requirements of the *Medical Act* and its regulations have been met.
4. Any Defined Licence issued by the College to Dr. Baghaee after June 3, 2015 shall be subject to the provisions of the *Medical Act* and its regulations, any conditions required by Dr. Baghaee's sponsor, and the following terms:
  - a. Dr. Baghaee shall be required to achieve certification in family medicine with the College of Family Physicians of Canada no later than December 31, 2017;
  - b. Dr. Baghaee must practice under supervision for the full period of time he holds a Defined Licence. The nature of the supervision, the frequency and content of supervisory reports to the College, and the costs of the supervision payable by Dr. Baghaee shall be determined by the Registrar of the College;
5. Dr. Baghaee shall pay a contribution to the costs of the College in an amount agreed upon with the College.

6. Failure to meet any of the conditions of this informal resolution shall result in the immediate suspension of Dr. Baghaee's licence to practice medicine. Any such suspension will be vacated upon Dr. Baghaee curing the default giving rise to the suspension.
7. The College agrees that it shall cooperate with providing information about this informal resolution to any third parties who are involved with Dr. Baghaee's return to practice, including but not limited to representatives of the Nova Scotia Health Authority, his intended supervisor, the Department of Health and Wellness, and the College of Family Physicians of Canada.

## **REASONS FOR ACCEPTING INFORMAL RESOLUTION**

The Committee is of the view that revocation of Dr. Baghaee's Defined Licence is the only appropriate disposition of this matter, given that his licence was obtained under false pretences. The importance of truthfulness during the College's application process is underscored by the language of the application form itself:

This language was referenced in the reasoning of the Committee in continuing the interim suspension pending final disposition of the complaint, and applies with the same force in considering the final disposition. Dr. Baghaee, while admittedly motivated by very difficult circumstances in his home country, made a deliberate decision to misrepresent information to the College in order to gain access to a program for which he would otherwise have been ineligible. His personal gain was more important than his honesty. The College cannot condone, and indeed must condemn in the strongest way possible, the dishonesty of any applicant for membership in the College who chooses to misrepresent or omit required information during the licensure process.

The College's licensure process is the gatekeeper to the provision of competent medical services to the public. Those who seek the privilege of a licence to practice medicine must in addition to practising medicine with integrity, also complete the application process with integrity. Failure to do so must result in the strongest possible sanction, which in this case is the revocation of Dr. Baghaee's licence to practice medicine.

The Committee has reviewed a variety of cases involving lack of integrity during the application process. In several instances, the application was refused when the dishonesty was uncovered prior to the licence being issued. In other instances where the dishonesty was discovered after a licence was issued, varying penalties were issued, ranging from reprimands and periods of suspension to revocation of licences. These cases suggest there are gradations of dishonesty, which attract gradations of sanction.

In the view of this Committee, both the aggravating and mitigating circumstances of Dr. Baghaee's case justify the informal resolution accepted here, where his licence to practice medicine is revoked, but after a period of time, he is eligible to reapply for a licence.

Aggravating factors in Dr. Baghaee's case include:

- a. His dishonesty was purposeful and for personal gain;
- b. He repeated his dishonesty on more than one application;

- c. He understood that revocation was a possible consequence of his dishonesty and still proceeded to falsify his application;
- d. Others may have been disadvantaged from entry into the CAPP program, when he was given a spot based on misrepresented information.

The Committee does not accept Dr. Baghaee's earlier submissions that there is no evidence of harm to the profession arising from his dishonesty. The harm lies in the loss of public confidence in the event the College tolerates the subversion of its licensing processes without strong denunciation. The revocation of Dr. Baghaee's licence to practice medicine provides such strong denunciation. This result serves as a deterrent not only to Dr. Baghaee, but to others who are tempted to engage in misrepresentation for personal gain.

The Committee also recognizes there are mitigating factors in this case, including the following:

- a. Dr. Baghaee has no other disciplinary history;
- b. His personal circumstances were extremely difficult, motivating him to misrepresent information in order to put his family into better circumstances;
- c. He made a ready admission of his misrepresentation when confronted by the College, and cooperated throughout the investigation to reach this informal resolution ;
- d. He is supported in a return to practice by his colleagues and community.

Based on these factors, the Committee is prepared to allow Dr. Baghaee to return to practice if he otherwise qualifies to hold a Defined Licence under the terms of the *Medical Act* and its regulations.