

COLLEGE OF PHYSICIANS AND SURGEONS OF NOVA SCOTIA

SUMMARY OF DECISION OF INVESTIGATION COMMITTEE “C” DR. MOHSEN YAVARI

Investigation Committee “C” of the College of Physicians and Surgeons of Nova Scotia concluded its investigation into a complaint against Dr. Mohsen Yavari by decision rendered February 2, 2016 and an Addendum Decision rendered June 3, 2016. The complaint involved allegations of misrepresentation of information on Dr. Yavari’s assessment and licensing applications with the College. The Investigation Committee resolved the matter by way of an informal resolution, whereby Dr. Yavari agreed to have his licence to practice medicine revoked. The Committee further agreed through the informal resolution that if Dr. Yavari 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 4 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. Mohsen Yavari is a physician licensed to practice family medicine in Nova Scotia since 2013. Dr. Yavari holds a Defined Licence and practises in Glace Bay under the sponsorship of Dr. Jeremy Hillyard.

The College received information in November, 2015, alleging Dr. Yavari may not have disclosed his full medical practice details to the College on his application to CAPP (Clinician Assessment for Practice Program) and subsequently on his application for licensure.

The College requested and obtained a copy of Dr. Yavari’s Certificate of Good Standing from the Dubai Health Authority. This confirmed Dr. Yavari had been licensed as an Emergency Medicine Specialist from 2006 to 2012, with the exception of one six-month period beginning January 2010. The College had explored with Dr. Yavari a similar concern earlier in 2015. At that time, Dr. Bill Lowe, Deputy Registrar, explored with Dr. Yavari reports that he was actually a trained surgeon. Dr. Yavari denied that he was a surgeon and, at the very least, did not take the opportunity to acknowledge the fact of his specialty in Emergency Medicine.

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. 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.

Dr. Yavari acknowledged he had intentionally not provided information on his curriculum vitae regarding his employment in Dubai. Dr. Yavari stated that although he did work in Dubai as an Emergency Medicine Specialist, he also provided general medical services during this time. He states the Certificate of Good Standing would indicate he was a specialist as this is a higher level of practice than a general practitioner. For this reason, he did not include this work experience.

Investigation Committee C reviewed the complaint on February 16, 2016 prior to receiving Dr. Yavari's formal response. At that time, the Committee felt that an interim suspension was warranted. This was imposed immediately, with written reasons following.

In addition, the Committee was concerned about Dr. Yavari's professional conduct within his current practice, based on his sponsor's year-end report.

Dr. Yavari states that prior to completing the CAPP materials he was warned by other 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. Yavari has admitted to dishonesty on his applications to CAPP and for licensure. There can be no doubt the dishonesty was strategic and wilful. Dr. Yavari admitted as much in his response and interview before the Committee. He withheld information that he felt would preclude him from CAPP eligibility.

Above Dr. Yavari'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.

Decision

After interviewing Dr. Yavari in February 2016, Investigation Committee "C" reviewed all information received by it and noted that Dr. Yavari had been cooperative and forthcoming in the proceedings to date. The Committee noted that Dr. Yavari had admitted to dishonesty on his applications to CAPP and for licensure.

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. Yavari would have 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. Yavari has been rewarded already for an effective and strategic misrepresentation. Will this invite other such applications? Were other appropriately qualified candidates disadvantaged by Dr. Yavari's dishonesty?

But for the dishonesty, Dr. Yavari 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. Yavari to practise with knowledge of his dishonesty, pending a final disposition of the complaint.

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

Reasons for Accepting Informal Resolution

The Committee is of the view that revocation of Dr. Yavari'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. Yavari, 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. Yavari'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. Yavari'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. Yavari'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. Yavari's submissions that the patients in Glace Bay should not have to suffer for his actions. The Committee strongly believes Dr. Yavari's dishonesty has resulted in his placement in the Community, instead of another appropriately qualified candidate. This has left the community struggling now to find medical care when that dishonesty was realized. Harm also 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. Yavari's licence to practice medicine provides such strong denunciation. This result serves as a deterrent not only to Dr. Yavari, 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. Yavari 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 eventually made an admission of his misrepresentation when confronted by the College, and thereafter 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. Yavari to return to practice if he otherwise qualifies to hold a Defined Licence under the terms of the *Medical Act* and its regulations.