

Indexed as: Abouelnasr (Re)

**THE DISCIPLINE COMMITTEE OF THE COLLEGE
OF PHYSICIANS AND SURGEONS OF ONTARIO**

IN THE MATTER OF a Hearing directed
by the Complaints Committee of
the College of Physicians and Surgeons of Ontario
pursuant to Section 36(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. WAHID ALY ABOUELNASR

PANEL MEMBERS:

**DR. C. CLAPPERTON
D. EATON-KENT
DR. P. CHART
E. ATTIA (Ph.D.)
DR. P. HORSHAM**

Hearing Date:	April 7, 2008
Decision Date	April 7, 2008
Written Reasons Date	May 8, 2008

DECISION AND REASONS FOR DECISION

The Discipline Committee of the College of Physicians and Surgeons of Ontario (the “Committee”) heard this matter at Toronto on April 7, 2008. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty order with written reasons to follow.

THE ALLEGATIONS

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

1. 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 under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”), and
2. in that he engaged in conduct unbecoming a physician under paragraph 1(1)34 of O. Reg. 856/93.

RESPONSE TO THE ALLEGATIONS

Dr. Abouelnasr admitted to the second allegation as set out in the Notice of Hearing, that he committed an act of professional misconduct in that he engaged in conduct unbecoming a physician. Counsel for the College withdrew the first allegation.

FACTS AND EVIDENCE

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

1. Dr. Abouelnasr was suspended from the College for a period of six months beginning December 1, 2006.

2. On December 5, 2006, Dr. Abouelnasr was renovating his bathroom and accidentally stepped on a rusty nail, causing a puncture wound in his right foot. As a result, his foot was bleeding and Dr. Abouelnasr was in considerable pain.
3. He attended at the Emergency Room (the “ER”) of a Toronto hospital (the “Hospital”) accompanied by his son. The ER was very busy at the time.
4. While there, Dr. Abouelnasr was impatient with, and inconsiderate of, the nursing staff. Based on his medical training, Dr. Abouelnasr insisted that he knew what treatment was required and insisted that he be treated promptly. He refused to be triaged in the ordinary manner or follow the usual process of being registered as a patient. Dr. Abouelnasr inappropriately demanded to speak to senior personnel of the Hospital when he was not given the prompt treatment he requested. He also went into the Restricted Area of the ER without authorization. Dr. Abouelnasr was generally disruptive and interfered with the nursing staff’s ability to effectively carry out their work. As he left the Hospital, Dr. Abouelnasr referred to the possible treatment of his patients at the Hospital, which caused the nurse to feel anxious. By conducting himself in this way, Dr. Abouelnasr acknowledges that on this occasion his conduct was unbecoming a physician.
5. The nursing staff contacted Hospital security, who escorted Dr. Abouelnasr and his son out of the Hospital. Dr. Abouelnasr and his son left the ER without incident.
6. As a physician, Dr. Abouelnasr should have better understood the pressure hospital emergency rooms, and the Hospital ER nurses, were under, and should not have acted inappropriately. Dr. Abouelnasr recognizes that his medical condition at the time does not excuse his behaviour. He is profoundly sorry and apologizes to the ER nurses and the Hospital, and asks for their forgiveness.

FINDING

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts. Having considered these facts, the Committee accepted Dr. Abouelnasr's admission and found that he committed an act of professional misconduct in that he engaged in conduct unbecoming a physician under paragraph 1(1)34 of O. Reg. 856/93.

REASONS FOR FINDING

The Committee was mindful that conduct unbecoming a physician is intended to capture conduct by the member outside the practise of the profession. It includes actions that are inappropriate and which reflect poorly on the member and/or the profession.

In making the finding of professional misconduct, the Committee had particular regard for the following:

- Dr. Abouelnasr knew or should have known that the proper functioning of a busy emergency room requires appropriate triage so that patients with serious or life threatening conditions receive priority. Disruption based on an unreasonable demand for preferential treatment potentially impacts proper and efficient delivery of emergency room service.
- Dr. Abouelnasr was disrespectful of nursing staff and disregarded hospital rules and procedures when he insisted on prompt treatment, refused to be registered and triaged in the usual manner, entered a restricted area without authorization, and was generally disruptive. Such behaviour is clearly inappropriate.
- The public trusts members of the profession to act in a reasonable and responsible manner. Dr. Abouelnasr's behaviour on December 5, 2006 when he attended the emergency department was neither reasonable nor responsible. Although noted by colleagues to be an empathetic physician, his conduct showed a remarkable lack of insight and judgment, which undermined him personally and reflected unfavourably on the profession.

PENALTY AND REASONS FOR PENALTY

Counsel for the College and counsel for the member made a joint submission as to an appropriate penalty and costs as follows:

1. Dr. Abouelnasr attend and successfully complete the College of Physicians and Surgeons of Ontario's Medical Ethics and Informed Consent course, at his own expense, within 90 days of the date of this order.
2. Dr. Abouelnasr send forthwith an apology letter to the CEO of the hospital and to the complainant.
3. Dr. Abouelnasr appear before the Panel to be reprimanded.
4. Dr. Abouelnasr pay costs to the College in the amount of \$1,800.00 within 30 days of the date of this Order.
5. The results of this proceeding be included in the register.

In considering the proposed penalty in this matter, the Committee noted that Dr. Abouelnasr was previously seen before the Discipline Committee; however, the circumstances were unrelated to the current finding.

The Committee considered the following mitigating factors:

- The admission of professional misconduct, which saved hearing time and expense, and spared witnesses from testifying.
- Dr. Abouelnasr's agreement to send letters of apology to the CEO of the hospital and the nurse involved. This action demonstrates that Dr. Abouelnasr has taken responsibility and has remorse for his actions in this regrettable episode.

The Committee heard testimony from a registered practical nurse who worked with Dr. Abouelnasr at an Ontario Mental Health Centre and who observed him to be a kind,

thoughtful, and warm professional whose behaviour has been highly appropriate, even under very difficult and stressful circumstances. The Committee also reviewed a letter from a nurse colleague attesting in a similar way to the esteem in which he is held by hospital staff. The Committee concluded from this evidence that the behaviour which forms the basis of the findings was out of character for Dr. Abouelnasr.

The Committee took into consideration the presentations of counsel for the College and defence counsel and the similar cases which were cited. The Committee is also aware that the law requires that the joint submission be accepted unless to do so would be contrary to the public interest and would bring the administration of justice into disrepute.

Given all the circumstances of this case, the Committee agrees with the proposed penalty, believing that it is an appropriate measure of censure in this matter. The principles of penalty that apply are denunciation of the conduct, and specific and general deterrence. The Committee believes that the proposed penalty satisfies these principles.

ORDER

Therefore, the Committee ordered and directed that:

1. Dr. Abouelnasr attend and successfully complete the College of Physicians and Surgeons of Ontario's Medical Ethics and Informed Consent course, at his own expense, within 90 days of the date of this order.
2. Dr. Abouelnasr send forthwith an apology letter to the CEO of the hospital and to the complainant.
3. Dr. Abouelnasr appear before the Panel to be reprimanded.
4. Dr. Abouelnasr pay costs to the College in the amount of \$1,800.00 within 30 days of the date of this Order.
5. The results of this proceeding be included in the register.

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