

SUMMARY OF DECISION OF INVESTIGATION COMMITTEE “B” DR. ABRAHAM MARAIS

Investigation Committee “B” of the College of Physicians and Surgeons of Nova Scotia (the College) concluded its investigation into a complaint against Dr. Abraham Marais by Decision dated [...] The Investigation Committee reached agreement with Dr. Marais with respect to the disposition of the complaint. A summary of the complaint and its disposition appears below.

SUMMARY OF BACKGROUND, COMPLAINT AND RESPONSE

Dr. Abraham Marais is a physician licensed to practise medicine in Nova Scotia since 2006. Dr. Marais holds a defined licence, a provisional licence given to some physicians who have yet to obtain all of the Canadian qualifications for full licensure. He has a family practice in Yarmouth.

The complaint which is the subject of this decision was brought to the attention of the College when it was revealed that Dr. Marais falsely indicated on his 2014 and 2015 licence renewals that he had met the minimum yearly requirement for Continuing Professional Development (CPD).

Dr. Marais is not eligible for the Alternate Route to Certification (ARC) of the College of Family Physicians of Canada (CFPC). Dr. Marais’ licensure was extended twice under a Memorandum of Understanding (MOU) requiring him to have an assessment of his practice if he had not obtained the CCFP (Certification in the College of Family Physicians). Dr. Marais challenged the CCFP certification examination in 2012 and 2013. Neither attempt was successful. Two assessments were conducted on his practice which noted some deficiencies. As part of the MOU, Dr. Marais was required to be enrolled in the Mainpro program and meet a yearly requirement of CPD. Dr. Marais enrolled in the program in January 2010.

Dr. Marais completed his license renewal for 2016 and stated that he had not accrued the required CPD credits. Dr. Grant received a follow-up letter from Dr. Marais dated February 14, 2016 offering an explanation for not meeting the requirement. Dr. Marais stated he had concerns with his family’s eligibility for permanent residency and in the event that Citizenship and Immigration Canada ultimately required him to leave the country, he chose to spend his time earning as much income as possible instead of obtaining CPD credits. In his letter Dr. Marais proposed a plan to obtain his CPD credits if he received permanent residency in Canada.

A review of Dr. Marais’ registration file revealed that he had indicated on both his 2014 and 2015 renewal form that he had met the minimum yearly requirement for Mainpro. This was not true as revealed in a letter to the Registrar Dr. D.A. (Gus) Grant on February 14, 2016.

On March 8, 2016, Dr. Grant wrote to Dr. Marais rejecting his proposal, and forwarded the matter to the Professional Conduct Department for investigation.

In response, Dr. Marais stated he had been faithful to his CPD with activities such as journal reading and self-learning, but that he did not keep an appropriate log and failed to adequately claim the credits. He indicated that demands on his personal life interfered with his responsibility to comply with the requirements. Dr. Marais apologized for the inadequacy of his letter to Dr. Grant, and is currently taking steps to be reinstated with the College of Family Physicians of Canada.

The audit of Dr. Marais' practice reassured the Committee that the care he provided meets the standard. The audit did identify some deficiencies, such as an instance of not documenting patient non-compliance or refusal of treatment, of not always documenting differential diagnosis or medication side effects, and a somewhat confusing manner in updating medication lists on the CPP. The audit also described a concerning practice of potentially leaving triplicate pads unattended, and in areas accessible by patients. The auditor did note Dr. Marais showed insight into these deficiencies during the CSR portion of the audit, and in some cases, was already in the process of making improvements. The auditor also made a number of positive comments about Dr. Marais' care and that he is a compassionate family doctor who has gotten to know the nuances of his patients well.

In response to the audit, Dr. Marais indicated that he was appreciative of the advice given by the auditor and stated he would endeavor to act on the recommendations made. The Committee notes that Dr. Marais has recently taken a record keeping course and urges him to continue with the improvements he has made to his practice.

DECISION

The Committee was concerned that Dr. Marais deliberately misrepresented his CPD compliance on his licensing renewal forms. The Committee was also not satisfied with Dr. Marais' letter to Dr. Grant regarding his deception.

Section 46 of the CMA Code of Ethics states that a physician must:

Recognize that the self-regulation of the profession is a privilege and that each physician has a continuing responsibility to merit this privilege and to support its institutions.

During his interview with the Committee, Dr. Marais acknowledged his dishonesty and noted the inappropriateness of his letter to Dr. Grant.

The Committee is of the opinion this matter warrants disciplinary action.

DISPOSITION

In accordance with section 99(5)(f)(i)(A) of the *Medical Practitioners Regulations*, the Committee determined there is sufficient evidence that, if proven, would constitute professional misconduct, and warrants a licensing sanction. Rather than refer the matter to a hearing, the Committee determined that the matter could be resolved with the consent of Dr. Marais to the following, pursuant to section 99(7)(a)(i) and (ii):

1. Dr. Marais is ***reprimanded*** for not being truthful on his 2014 and 2015 licence renewal forms.
2. Dr. Marais shall contribute to the College's costs in this matter which include payment for the audit.

Dr. Marais has agreed to accept this disposition.

The Committee believes that the disposition outlined above reflects its serious concerns with respect to Dr. Marais' dishonesty, while recognizing that the audit of his practice reflected care which otherwise meets the expected standard.