

PROVINCE OF NOVA SCOTIA)
COUNTY OF HALIFAX)

IN THE MATTER OF: The *Canada Evidence Act*

- and -

IN THE MATTER OF: The *Medical Act*, R.S.N.S. 1995-96, c.10

- and -

IN THE MATTER OF: Dr. Ian Egbert DePass

SETTLEMENT AGREEMENT

Dr. Ian E. DePass, a medical practitioner in the Province of Nova Scotia, and a member of the College of Physicians and Surgeons of the Province of Nova Scotia (the "College") from 1997 to 2002, hereby agrees with and consents to the following in accordance with the provisions of the *Medical Act*, R.S.N.S. 1995-96, c.10.

I. STATEMENT OF FACTS

1. Dr. Ian E. DePass received his Medical Degree at Memorial University of Newfoundland in 1989, and completed his general surgery residency at Memorial University of Newfoundland in 1996.
2. Dr. DePass practised as a general surgeon at the Queens General Hospital in Liverpool, Nova Scotia from August 1997 to June 2002.
3. On May 8th, 2002, a medical colleague sent a letter of complaint regarding Dr. Ian E. DePass to the College of Physicians and Surgeons of Nova Scotia.
4. The letter of complaint addressed two main concerns: (a) the general quality of care provided by Dr. DePass; and (b) the wide scope of practise by Dr. DePass at the Queens General Hospital, specifically, the range of procedures provided, his management of post-operative complications and his patient selection, in view of his experience, skill and knowledge.
5. In accordance with the provisions of the *Medical Act*, R.S.N.S. 1995-96, c.10 an investigation into the allegations against Dr. Ian E. DePass was conducted by the College of Physicians and Surgeons.

6. As part of the investigative process, Dr. DePass was asked by the Investigation Committee of the College to have an assessment of his general competence to practice medicine conducted by the Center for Personalized Education for Physicians (CPEP) in Colorado in June, 2003. A series of clinical and theory based tests were administered by CPEP. The results revealed an adequate knowledge of surgical technique, with some specific areas for improvement being noted. Further, the results recommended an evaluation of neuropsychological functioning, a specific peer review of technical surgical aptitude and educational recommendations including Continuing Medical Education and self-study and a recommendation for Dr. DePass to consider establishing a relationship with an experienced educational preceptor in general surgery. Since the identified areas of need were relatively discrete it was noted that structured intervention was not necessary.
7. In late 2002 Dr. DePass moved to Ontario and commenced practice as a general surgeon in the Chatham-Kent area. Since his move to Ontario, Dr. DePass has engaged in Continuing Medical Education and self-study, and has established relationships with experienced surgeons. Dr. DePass continues to practice currently in the Chatham-Kent area and is part of a group practice with other surgeons.
8. In December 2003, Dr. Ian DePass underwent a neuropsychological evaluation by a specialist in Ottawa. A series of psychological and physiological tests were administered. Results of the evaluation revealed average overall performance.
9. Dr. DePass has fulfilled all the recommendations arising from the CPEP assessment.
10. The Investigation Committee of the College further directed that an audit of Dr. Ian. E. DePass' medical records from Queens General Hospital in Liverpool (the "Audit") be conducted by an experienced surgeon. The Audit was completed in March, 2004 and focused on the range of services provided by Dr. DePass, his clinical judgment, patient selection, and management of post-operative complications. The Audit suggested that some deficiencies had existed in Dr. DePass' practice relating to judgment and skill in the evaluation of patients, the selection of surgical procedures, surgical skill and post operative care.
11. Following two adjournments of the scheduled commencement of the Hearing into this matter, Dr. DePass initiated a pre-hearing application before the Hearing Committee of the College where he brought forward various procedural challenges to the College's processes. The Hearing Committee of the College heard Dr. DePass' application over two days in July, 2006, and issued its Decision on the procedural challenges in December, 2006. The Hearing Committee dismissed Dr. DePass' procedural challenges and ordered that the Hearing proceed.
12. Dr. DePass filed a Notice of Appeal from the Hearing Committee's Decision to the Nova Scotia Court of Appeal in January, 2007 and the matter was scheduled to be heard by the Nova Scotia Court of Appeal on May 9, 2007. In the course of preparing for the appeal, the parties have reached the agreement set out herein.

II. COMPLAINT

13. In a Notice of Hearing dated July 15, 2004, amended June 6, 2006, the College of Physicians and Surgeons of Nova Scotia charged Dr. Ian E. DePass with the following:

THAT being registered under the *Medical Act*, R.S.N.S., 1995-96, c.10, and being a medical practitioner in the Province of Nova Scotia during the periods listed below, it is alleged that:

1. During the period July, 1999 to December, 2002, you failed on a number of occasions to exercise appropriate judgment by performing surgery as a solo surgeon ;
2. During the period December, 1999 to December, 2002, you failed on a number of occasions to conduct or order appropriate pre-operative investigations or assessments.
3. During the period August, 1997 to December, 2002, you failed on a number of occasions to demonstrate adequate skill during surgical procedures including:
 - (i) failing to identify and/or document the location of the ureters on a number of patients during surgery;
 - (ii) failing to check the integrity of bowel anastomosis of a number of patients during surgery;
 - (iii) using inadequate or inappropriate technique when performing surgery on a number of patients.
4. During the period August, 1997 to December, 2000, you failed on a number of occasions to demonstrate adequate skill or judgment in managing post-operative care for patients;
5. During the period August 1997 to October, 2001 you failed on a number of occasions to exercise appropriate judgment in agreeing to proceed with selected surgery.

III. ADMISSIONS

14. Dr. Ian E. DePass admits the allegations outlined in paragraph 13, and acknowledges the allegations constitute a disciplinary matter violation.

IV. CONSENT TO DISPOSITION

15. Dr. Ian E. DePass hereby consents to the following:

- (a) Dr. Ian E. DePass is reprimanded for the deficiencies in his practice as outlined in the admitted allegations.
- (b) Dr. Ian E. DePass' licence to practice medicine in Nova Scotia shall be restricted to a group practice with another general surgeon or surgeons.
- (c) If Dr. Ian E. DePass chooses to re-apply to practice medicine in the Province of Nova Scotia, this Settlement Agreement together with all information on file with the College in respect to this matter shall be made available to the Credentials Committee of the College of Physicians and Surgeons.

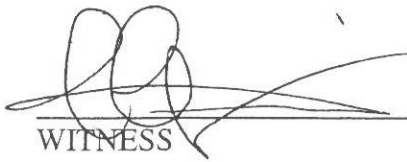
V. COSTS

16. Dr. Ian E. DePass agrees to pay costs in the amount of \$15,000, inclusive of HST, as a contribution towards the College's costs for the conclusion of this matter. The costs shall be paid by way of 15 monthly post dated cheques, each in the amount of \$1000. The cheques shall be delivered to the College at the time of the signing of this Settlement Agreement, with the first cheque payable on or before April 30, 2007. The costs are a debt due to the College, recoverable by way of civil action in the event Dr. DePass does not fulfill his payment obligations set out in this paragraph. Dr. DePass agrees that in the event he defaults on his obligations pursuant to this paragraph, judgment shall be entered against him in Ontario or such other jurisdiction in which he resides at the time of default, for the balance remaining unpaid together with interest compounded at the rate of 6%.

VI. EFFECTIVE DATE


17. This Settlement Agreement shall only become effective and binding when it has been recommended for acceptance by the Investigation Committee of the College, and accepted by the Hearing Committee appointed to hear this matter.


DATED at Halifax, Province of Nova Scotia, this 26th day of March, 2007.


WITNESS

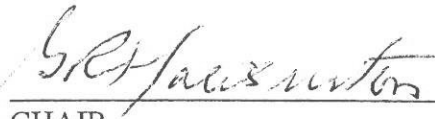

DR. IAN E. DEPASS

DATED at Halifax, Province of Nova Scotia, this 28th day of April, 2007.



WITNESS


MARJORIE A. HICKEY
COUNSEL FOR THE COLLEGE OF
PHYSICIANS AND SURGEONS
OF NOVA SCOTIA

DATED at Halifax, Province of Nova Scotia, this 29th day of March, 2007.


CHAIR,
The Investigation Committee
of the College of Physicians and Surgeons
of Nova Scotia

DATED at Halifax, Province of Nova Scotia, this 30th day of April, 2007.


CHAIR, APRIL J. DUNCAN Q.C.
The Hearing Committee
of the College of Physicians and Surgeons
of Nova Scotia