

BREAKING CASE LAW

*Zakhary v College of
Physicians and
Surgeons of Alberta,*
2013 ABCA 336

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Publishing Discipline
Decisions under the
HPA

Zakhary v College of Physicians and Surgeons of Alberta 2013 ABCA 336

On October 3, 2013, the Alberta Court of Appeal issued a decision in *Zakhary v College of Physicians and Surgeons of Alberta*. Dr. Zakhary applied to the Court of Queen’s Bench for judicial review of the College’s authority to publish her conviction and penalty arising from her discipline hearing.

Justice Ross of the Court of Queen’s Bench dismissed the judicial review application. Justice Ross stated that the purpose of publication by the College is not to punish, but to promote the public interest through transparency.

The appeal to the Court of Appeal was dismissed. The Court of Appeal examined the College’s powers under the *Health Professions Act* (“the HPA”) to publish decisions of a discipline tribunal. The Court of Appeal stated that the College has the capacity, rights, powers and privileges of a natural person under section 2(a) of the HPA. Natural persons have the power and the right to speak or write or to publish; therefore, the College, and all regulatory colleges under the HPA, can exercise natural person powers. Regulatory colleges also have a duty under section 3(1)(a) of the HPA to govern its members and protect the public interest. The Court of Appeal stated that the scheme under the HPA is openness.

This case is strong support for the authority of a regulatory body with a duty to act in the public interest and the importance of transparency to ensure the public interest is protected