Education: Obligations of physicians practising in a university hospital centre

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In a decision rendered on April 30, 2015[1], the Administrative Tribunal of Québec (the "ATQ") upheld a decision of the board of directors of a university hospital centre that refused to renew the status and privileges of a physician who failed to fulfill the obligations associated with the enjoyment of these privileges. Firstly, it should be noted that the applicant's clinical competence was not questioned in this case. Rather, it was his behaviour in relation with teaching that was problematic.

In support of its decision, the board of directors of the hospital noted that the physician had breached his duty to provide supervision, guidance and availability to residents and external physicians to such an extent that the board had been forced to relieve him of his teaching duties and assign him to other functions. For several years prior to this, the physician had ceased to have the requisite skills and abilities to practise his profession in a university hospital centre, despite the institution’s numerous attempts to intervene and rectify the situation.

The debate before the ATQ was centered on the interpretation of section 238, paragraph 4, of the Act Respecting Health Services and Social Services,[2] namely the “criteria of qualifications, scientific competence or conduct of the physician”, with respect to “the specific requirements of the institution, and fulfilment of the obligations attached to the enjoyment of the privileges granted.”

The ATQ decided that the decision not to renew the status and privileges was well founded and ought to be upheld given this physician’s obvious lack of interest in teaching, which was an essential component of his duties. Such a lack of interest was therefore found to be unacceptable considering the obligations associated with the enjoyment of the privileges of a physician practising in a university hospital centre.

In an attempt to have the hospital’s decision annuled, the applicant alleged that the fact that his

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privileges had been renewed successively over the years showed that he must have been meeting the teaching requirements. However, the ATQ disagreed. Indeed, the evidence showed that, since 2006, despite the renewal of his privileges, this physician had received several notices from his superiors reminding him to fulfill his teaching obligations. According to the ATQ, these renewals of privileges ought rather to be seen as opportunities that were being afforded to the physician to remedy the shortcomings identified over the years.

In its decision, the ATQ noted that the physician had always been informed of the complaints made against him relating to teaching, but that he had chosen to ignore them and deny their merits, and had refused to act upon the recommendations that were made to him, while visibly trying to blame others.

Thus, despite having been given numerous chances, the physician had shown very little improvement or interest, giving the institution no other option but to decline his status and privilege renewal.

In light of the evidence presented before the tribunal, particularly the contract of affiliation between the hospital centre and the university, it was clear that teaching was at the very heart of this institution's medical activities and was a distinctive requirement of this university hospital centre. In this context, the ATQ agreed that such an obligation could be attached to the enjoyment of a physician's status and privileges.

Paraphrasing of its holding in the *M.G.* v. *Centre Hospitalier A* case,[3], lthe ATQ held that to reinstate the physician's privileges would be to restore him to a position in which it had been shown many times that he was incapable of fulfilling his teaching obligations because of his own choices.[4]

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[1] *R.A.* v. *Centre Hospitalier A*, 2015 QCTAQ 041038.

[2] CQLR, c. S-4.2.

[3] 2012 QCTAQ 031173.

[4] *Id*., par. 461.

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