

Indexed as: Schogt (Re)

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

IN THE MATTER OF a Hearing directed
by the Executive Committee of the College of Physicians
and Surgeons of Ontario, pursuant to Section 36(2)
of the *Health Professions Procedural Code*,
being Schedule 2 to 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. BARBARA SCHOGT

PANEL MEMBERS:

DR. R. MACKENZIE (CHAIR)
DR. M. DAVIE
B. MOSELEY-WILLIAMS
DR. M. GABEL
J. ASHMAN

Hearing Date: March 26, 2004
Decision/ Release Date: March 26, 2004

DECISION AND REASONS FOR DECISION

The Discipline Committee of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on March 26, 2004. At the conclusion of the hearing, the Committee stated its finding that the member committed professional misconduct and delivered its penalty order with written reasons to follow.

ALLEGATION

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

1. under paragraph 51(1)(b.1) of the Code in that she engaged in the sexual abuse of a patient; and
2. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* ("O/Reg. 856/93"), in that she has engaged in conduct or an act or acts relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

RESPONSE TO ALLEGATION

At the commencement of the hearing, the College withdrew allegation 1 and Dr. Schogt admitted to allegation 2 in the Notice of Hearing.

EVIDENCE

The following Statement of Facts and Finding Requested was filed as Exhibit 2 and presented to the Committee:

1. The defendant, Dr. Barbara Schogt, is a psychiatrist. Dr. Schogt graduated from medical school (University of Toronto) in 1981. In 1995, Dr. Schogt was appointed to an Institute of Psychiatry as a psychotherapy supervisor for psychiatric residents. Until 2001, she supervised residents and lectured extensively at the Institute and later at another Institute of

Psychoanalysis, often volunteering her time to do so. In 1996, Dr. Schogt won the Allen B. Tennen award for excellence in teaching and supervision in psychotherapy.

2. The Patient was a psychotherapy patient of Dr. Schogt's from 1992 until 2001. In that period, the Patient attended for regular appointments with Dr. Schogt, usually several times a week. In April, 2001, Dr. Schogt and the Patient terminated the physician-patient relationship. The last psychotherapy session took place in April, 2001. Attached as Tab 1 [to the Statement of Facts and Finding Requested] is a copy of the OHIP treatment summary of Dr. Schogt for the Patient for 1996 to 2001.
3. Later in 2001, after the physician-patient relationship was terminated, Dr. Schogt and the Patient began an intimate relationship.
4. Since that time, Dr. Schogt and the Patient have lived together as a family along with the Patient's twelve-year-old child, for whom they have both assumed parental responsibility.
5. At no time has the Patient complained to the College about Dr. Schogt or their relationship. On the contrary, the Patient retained independent counsel who has advised the College that the Patient disapproves of the prosecution of Dr. Schogt and views the relationship with Dr. Schogt as beneficial. This matter came to the College's attention by way of mandatory reports.
6. When approached by a College investigator in the Spring of 2003, Dr. Schogt did not attempt to hide her relationship with the Patient. Rather, Dr. Schogt was cooperative and forthright, and admitted the relationship. She also provided the name of the former patient, which was unknown to the College.
7. Dr. Schogt closed her private practice in July 2002 and in October 2002, accepted a part-time position at a geriatric care centre, where she worked as part of a team in the Day Hospital for Depression and in the affiliated nursing home. Dr. Schogt left the geriatric care centre in August, 2003. The ongoing uncertainty resulting from the College investigation played a significant role in her decision to take a hiatus from the practice of medicine, until the issues now before the Discipline Committee are resolved.
8. Dr. Schogt has not had any prior allegations of professional misconduct referred to the Discipline Committee.

9. Dr. Schogt admits that, by entering into an intimate relationship with a former psychotherapy patient, she committed an act relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

FINDINGS REQUESTED AND WITHDRAWAL

10. On the basis of the facts above, the College of Physicians and Surgeons requests that the Discipline Committee make the following finding:

- (a) that Dr. Schogt committed an act of professional misconduct under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, in that she has engaged in conduct or an act or acts relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

11. The College withdraws the remaining allegations in the notice of hearing.

FINDING

The Committee accepted as true all of the facts set out in the Statement of Facts and Findings Requested. Having regard to these undisputed facts, the Committee found that Dr. Schogt committed an act of professional misconduct under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O/Reg. 856/93”), in that she has engaged in conduct or an act or acts relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

PENALTY DECISION AND REASONS

Counsel for the College and counsel for Dr. Schogt made a joint submission regarding penalty.

The Committee understands and accepts that it should deviate from joint submissions by the parties only in the most exceptional circumstances and in situations where the proposed penalty is so inappropriate as to bring the process of justice into disrepute. In this instance, the Committee agrees with counsel for the parties that an effective nine-month suspension is certainly within the reasonable range for the finding of professional misconduct made out against Dr. Schogt.

A brief of supporting letters was presented to the panel for its consideration. While acknowledging that character references are of limited predictive value in determining the likelihood of recidivism, the Committee was satisfied that Dr. Schogt has a previously unblemished professional record and is held in high esteem by her patients and colleagues. It also accepts that her misconduct appears to be neither predatory nor clandestine. She was fully cooperative with the College investigation and made no attempt to deny the relationship with her previous patient.

Notwithstanding these mitigating factors, the Committee wishes unequivocally to express its condemnation of Dr. Schogt's misconduct. Sexual relationships with prior psychotherapy patients are totally unacceptable. Dr. Schogt is a mature and qualified physician. She knew, or ought to have known, the absolute prohibition against entering into such a relationship. As a psychiatrist, she should be even more aware of the necessity to maintain boundaries with vulnerable patients. No preponderance of mitigating factors can outweigh this basic principle.

The Committee accepts that the lengthy suspension proposed in this case is sufficient to satisfy the principles of specific and general deterrence as well as protection of the public.

ORDER

Therefore, the Discipline Committee ordered and directed that:

1. the Registrar suspend Dr. Schogt's certificate of registration for a period of nine months commencing immediately;
2. the Registrar suspend Dr. Schogt's certificate of registration for a further three months, to be suspended upon Dr. Schogt successfully completing College-approved courses in boundaries and ethics;
3. Dr. Schogt attend before the panel to be reprimanded, with the fact of the reprimand to be recorded on the register; and;
4. the results of this proceeding to be included in the register.

At the completion of the hearing, Dr. Schogt waived her right to appeal under s.70 of the Code and the reprimand was administered.