

Indexed as: Bingham, J.L. (Re)

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

IN THE MATTER OF a Hearing directed
by the Complaints Committee of
the College of Physicians and Surgeons of Ontario
pursuant to Section 26(2) of the *Health Professional Procedural Code*,
being Schedule 2 of 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. JOHN LEE BINGHAM

PANEL MEMBERS:

R. SANDERS (CHAIR)
DR. I. BAXTER
A. VANSTONE
DR. D.BIENENSTOCK
DR. P. KLOTZ

Hearing Date:	June 6, 2003
Decision/Release Date:	June 6, 2003

DECISION AND REASON FOR DECISIONS

The Discipline Committee of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on June 6, 2003. 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.

PUBLICATION BAN

The Committee ordered that no person shall publish the identity of the patient or any information that could disclose the identity of the patient under subsection 47(1) of the Health Professions Procedural Code (the Code) which is schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18.

ALLEGATIONS

The Notice of Hearing alleged that Dr. John Lee Bingham has committed an act of professional misconduct:

1. under clause 51(1)(b.1) of the Code in that he sexually abused of a patient; and
2. under paragraph 1(1)(33) of Ontario Regulation 856/93 of the *Medicine Act* for an act or omission 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 ALLEGATIONS

Counsel for the College withdrew allegation 1 at the outset of the hearing. Dr. Bingham admitted to allegation 2.

EVIDENCE

The following Agreed Statement of Facts was filed as an exhibit and presented to the Committee:

1. Dr. John Bingham was born on March 24, 1952. He received his certificate of registration on December 1, 1980. He is a family physician and practises in [a town in] Ontario near Lindsay. Much of his time is devoted to psychotherapy.
2. The complainant, [Patient #1] was 27 years old when she received psychotherapy from Dr. Bingham from about April 4, 2001, to June 19, 2001. She attended a total of nine sessions with Dr. Bingham. [Patient #1] began to see Dr. Bingham because of her difficult and at times abusive relationships with men that led to her unhappiness with her life situation. After one of these sessions, Dr. Bingham hugged [Patient #1] when she was leaving the office.
3. During the discussions regarding [Patient #1]'s sexuality, Dr. Bingham made comments that left [Patient #1] uncomfortable. It is Dr. Bingham's position that these comments were directed towards her therapy.
4. On June 19, 2001, [Patient #1] brought a Cornish pasty and some vegetables for Dr. Bingham at one of their sessions. [Patient #1] had an interest in cooking and expressed a hope that one day she would operate her own restaurant. Dr. Bingham ate the meal in her presence. When he finished eating, Dr. Bingham said he was going to kiss her. He took the garbage to the examination room and returned to the office. He walked over to her and leaned down as if to kiss her. [Patient #1] turned away but Dr. Bingham gave her a kiss on the lips of her mouth. After the kiss, [Patient #1] was emotionally disturbed by Dr. Bingham's actions. She finished the session but felt that Dr. Bingham sat closer to her than he usually did. [Patient #1] was very upset about the whole incident.
5. [Patient #1] did not return for any further therapy with Dr. Bingham as a result. The following day, [Patient #1] called his office and said she no longer wanted to be treated by Dr. Bingham. Dr. Bingham tried to contact her on several occasions but she did not return his call.

6. [Patient #1] received a letter from Dr. Bingham dated June 25, 2001. In this handwritten letter, Dr. Bingham apologized for his conduct and asked [Patient #1] to contact him.

FINDINGS AND DECISION

The Committee accepted as true the facts set out in the Agreed Statement of Facts. Having regard to these facts and Dr. Bingham's admission, the Committee made a finding that Dr. Bingham committed professional misconduct under paragraph 1(1)(33) of Ontario Regulation 856/93 of the *Medicine Act, 1991*, in that he committed an act or omission 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 AND REASONS FOR PENALTY

Counsel for the College and counsel for Dr. Bingham made a joint submission regarding penalty, which was accepted as an appropriate penalty by the Committee.

Counsel for the College submitted a victim impact statement of the patient.

In mitigation, counsel for Dr. Bingham submitted a psychiatric report regarding Dr. Bingham's physical and emotional health at the time of the incident with [Patient #1]. The Committee gave due consideration to this report.

The Committee took notice of the memorandum from University of Western Ontario regarding a boundaries course which Dr. Bingham has completed, and which was a requirement for him to do in consideration of a suspension of three months of the agreed upon six-month suspension. The Committee noted that all five items of the evaluation were rated as "acceptable", and would have preferred to see at least one rated "exemplary".

The Committee is of the view that the actions of Dr. Bingham were unprofessional and that the jointly agreed upon penalty is appropriate.

ORDER

The Discipline Committee therefore ordered and directed that:

1. The Registrar shall forthwith suspend Dr. Bingham's certificate of registration for a period of six (6) months. The Registrar shall suspend three (3) months of this suspension on the following conditions:
 - (i) that Dr. Bingham has successfully completed a course on boundaries acceptable to the College;
 - (ii) Dr. Bingham will post security by way of letter of credit in the amount of \$10,000.00, to guarantee the payment of any amount the College may pay out in respect of funding for therapy and counseling.
2. Dr. Bingham is to pay costs to the College in the amount of \$2,500.00 prior to the completion of the suspension.