

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Donovan St. Clair Sequeira, this is notice that the Discipline Committee ordered that there shall be a ban on publication of the name or identity and any information that would disclose the name or identity of the patients whose names are disclosed at the hearing or in any documents filed at the hearing, to include, without limiting the generality of the foregoing, the name and identity of the complainant and family members of the complainant. In addition, the publication ban shall extend to the names of interview subjects referenced in an expert report tendered as Exhibit 5 at the hearing, under subsection 45(3) of the Health Professions Procedural Code (the “Code”), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, as amended.

Subsection 93(1) of the Code, which is concerned with failure to comply with these orders, reads:

Every person who contravenes an order made under ... section 45 or 47... is guilty of an offence and on conviction is liable,

- (a) in the case of an individual to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence; or
- (b) in the case of a corporation to a fine of not more than \$50,000 for a first offence and not more than \$200,000 for a second or subsequent offence.

Indexed as: Sequeira (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 Professions 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. DONOVAN ST. CLAIR SEQUEIRA

PANEL MEMBERS:

DR. W. KING (Chair)
U. DEOL
DR. P. HORSHAM
DR. F. SLIWIN

Hearing Date:	September 18, 2009
Decision Release Date:	September 18, 2009
Release of Written Reasons:	October 8, 2009

PUBLICATION BAN

DECISION AND REASONS FOR DECISION

The Discipline Committee of the College of Physicians and Surgeons of Ontario (the “Committee”) heard this matter at Toronto on September 18, 2009. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty order with written reasons to follow.

THE ALLEGATIONS

The Notice of Hearing alleged that Dr. Sequeira committed acts of professional misconduct:

1. under clause 51(1)(b.1) of the Health Professions Procedural Code (the “Code”), Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, in that he sexually abused a patient;
2. under paragraph 1(1)10 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O.Reg. 856/93”), in that he gave information concerning the condition of a patient or any services rendered to a patient to a person other than the patient or his or her authorized representative except with the consent of the patient or his or her authorized representative or as required by law; and
3. under paragraph 1(1)33 of O.Reg. 856/93, in that he has engaged in conduct or 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 THE ALLEGATIONS

Dr. Sequeira admitted the third allegation in the Notice of Hearing, that he engaged in conduct or 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. Counsel for the College withdrew the first and second allegations in the Notice of Hearing.

FACTS AND EVIDENCE

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

1. Dr. Donovan St. Clair Sequeira is a community family physician practising in the Greater Toronto Area.
2. Dr. Sequeira provided treatment and care to Patient A from the spring of 2000, at which time she was sixteen years old, until the winter of 2005. Patient A did not see Dr. Sequeira between July 2002 and her final appointment in December 2005. During the same time period, Dr. Sequeira was also the family doctor for Patient A's mother and father. Attached hereto at Tab 1 [of the Agreed Statement of Facts] are copies of Patient A's patient chart and a record of Dr. Sequeira's OHIP claims in respect of Patient A.
3. The final appointment, as arranged by Patient A, was for a complete periodic health examination, which included a pelvic examination. The pelvic examination was done in the presence of a nurse. At the conclusion of the appointment, Dr. Sequeira and Patient A discussed meeting socially. Attached hereto at Tab 2 [of the Agreed Statement of Facts] are messages exchanged between Dr. Sequeira and Patient A in which they agreed to have dinner together. At this time, Patient A was 21 years old. Dr. Sequeira was 39.
4. In a telephone conversation prior to their first date, Dr. Sequeira informed Patient A that she could no longer be his patient. While no immediate referral was made to an alternate physician nor was Patient A's patient file transferred to another medical office, Dr. Sequeira recommended another family physician to Patient A within a few weeks of her final appointment.
5. Dr. Sequeira and Patient A had dinner together in December 2005 and exchanged romantic text messages immediately afterwards and regularly in the ensuing days. Attached hereto at Tab 3 [of the Agreed Statement of Facts] are messages exchanged between Dr. Sequeira and Patient A between December 2005 and January 2006.

6. Dr. Sequeira and Patient A engaged in kissing and other physical contact in January 2006. The relationship became sexual commencing in March 2006, and sexual intercourse commenced in April 2006.
7. The relationship between Dr. Sequeira and Patient A was known to friends and family. Patient A's parents were aware that Patient A and Dr. Sequeira were dating from the time of their first date. Dr. Sequeira attended family functions at Patient A's family member's homes.
8. Dr. Sequeira and Patient A socialized with her friends on several occasions commencing in January 2006.
9. The romantic and sexual relationship between Patient A and Dr. Sequeira lasted until early 2007.
10. Dr. Sequeira admits that these actions constitute 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, contrary to paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*.

FINDINGS

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts. Having regard to these facts, the Committee accepted Dr. Sequeira's admission and found that he committed an act of professional misconduct in that he engaged in conduct or 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. In particular, as is set out below in more detail in the reasons for penalty section, entering into a personal, romantic and sexual relationship within a short time after the termination of the doctor-patient relationship is an extremely serious boundary violation.

PENALTY AND REASONS FOR PENALTY

Counsel for the College and counsel for the member made a joint submission as to an appropriate penalty and costs.

The Committee was mindful that a joint submission should not be rejected, unless it is contrary to the public interest or would bring the administration of justice into disrepute. The Committee considered the submissions of College counsel and counsel for the member in support of the proposed joint penalty.

The doctor-patient relationship in this case began when the patient was sixteen years old. Dr. Sequeira did not see the patient between 2002 and 2005; however, the final appointment in December 2005 included a complete health examination including a pelvic examination. Failure to maintain appropriate boundaries is always a serious matter. Dr. Sequeira and the patient discussed beginning a personal relationship at the end of a medical visit, which included an intimate personal physical examination. Entering into a personal, romantic and sexual relationship with a patient too quickly after terminating the doctor-patient relationship is an extremely serious boundary violation and that is what occurred in this case. As well, there was a significant eighteen-year age difference between Dr. Sequeira and the patient. The inherent power imbalance in the doctor-patient relationship was exacerbated by the age discrepancy between the individuals in this matter. The Committee also considered the victim impact statement, concerning the ongoing effects of this relationship on the patient.

Several mitigating factors were considered by the Committee, as well. Dr. Sequeira admitted responsibility, thereby sparing added distress to the patient, and sparing the expense of a full hearing. Dr. Sequeira has demonstrated remorse and insight into his misconduct. He had no previous findings of professional misconduct. The Committee considered Dr. Sequeira's extensive academic career, his community work, and the psychiatric report entered into evidence.

The Committee agreed that the penalty proposed by way of joint submission fell within the range of similar cases provided in the Book of Authorities. The proposed penalty will satisfy the following guiding principles:

1. Maintaining public confidence in the profession and the profession's ability to self-regulate;
2. Public protection;
3. Specific and general deterrence; and
4. Rehabilitation of the member.

ORDER

Therefore, the Committee ordered and directed that:

1. The Registrar suspend Dr. Sequeira's certificate of registration for a period of six (6) months, to commence within eight (8) weeks of the date of the Order.
2. Dr. Sequeira successfully complete, at his own expense, the College's Medical Ethics and Informed Consent Course and the College's Boundaries Course, on the next available date, and to provide proof thereof to the College.
3. Dr. Sequeira appear before the panel to be reprimanded.
4. The results of this proceeding be included in the register.

We consider that this is an appropriate case to award costs and order that Dr. Sequeira pay to the College costs in the amount of \$3,650, within 30 days of the date of the Order.

At the conclusion of the hearing, Dr. Sequeira waived his right to an appeal under subsection 70(1) of the Code and the Committee administered the public reprimand.