

## **NOTICE OF PUBLICATION BAN**

In the College of Physicians and Surgeons of Ontario and Dr. Ian Kent Shiozaki, this is notice that the Discipline Committee ordered that no person shall publish the identities of the patients or any information that would disclose their identities pursuant to a request under s.47 of the Health Professions Procedural Code (the Code), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, as amended.

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

93(1) Every person who contravenes an order made under section 45 or 47 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and not more than \$20,000 for a subsequent offence.

**Indexed as: Shiozaki (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(1) 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. IAN KENT SHIOZAKI**

**PANEL MEMBERS:** DR. M. GABEL (CHAIR)  
J. ASHMAN  
DR. I. BAXTER  
J. DHAWAN  
DR. C. J. CLAPPERTON

Hearing Dates: April 5, 7 and May 31, 2004  
Decision/ Release Date: May 31, 2004

**Publication Ban**

## **DECISION AND REASONS FOR DECISION**

The Discipline Committee of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on April 5, 7 and May 31, 2004. At the conclusion of the hearing on April 7, 2004, the Committee stated its finding that the member committed professional misconduct and adjourned the penalty hearing to May 31, 2004. At the conclusion of the hearing on May 31, 2004, the Committee delivered its penalty order in writing.

### **PUBLICATION BAN**

The Discipline Committee ordered that no person shall publish the identities of the patients or any information that would disclose their identities pursuant to a request under s.47 of the Health Professions Procedural Code (the Code), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, as amended.

### **ALLEGATIONS**

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

1. under clause 51(1)(b.1) of the Code in that he engaged in the sexual abuse of a patient;
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**

Dr. Shiozaki admitted to allegation 2 as set out in the Notice of Hearing. The College withdrew allegation 1.

## **EVIDENCE**

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

### **I. STATEMENT OF FACTS**

#### **Background**

1. Dr. Shiozaki received his certificate of Independent Practice on June 25, 1981. He is engaged in a general practice in a rural community in which he has been the only physician for more than 22 years. Prior to his arrival the community was serviced by approximately 10 different physicians over the course of as many years. Dr. Shiozaki has cared for in excess of 4,000 patients throughout central Ontario.
2. Dr. Shiozaki and the complainant, met socially in the late 1980s, shortly after the complainant and her family moved to the community. In 1988, the complainant worked for Dr. Shiozaki's wife as a retail salesperson. In April of 1991, she began to work part time as a nurse in Dr. Shiozaki's office. Over the course of time, she became a full time employee within Dr. Shiozaki's practice. Although she found other employment in early 2000, the complainant continued to work part time for Dr. Shiozaki from May or June to September of 2000. After Christmas, 2000, she again was employed in Dr. Shiozaki's practice on a part time basis. The complainant ceased to work for Dr. Shiozaki in mid April, 2001.
3. As of the late 1980s, the complainant and her family and the Shiozaki family were friendly and often socialized together. They also became neighbours in January of 1993, after the complainant's family moved into a house they built on a one acre lot which Dr. Shiozaki had severed from his thirty acre property and 'sold' to them for one dollar. The two families interacted socially on a regular basis until mid April, 2001. Over the course of the years, the complainant and Dr. Shiozaki had become very close friends. However, in the latter part of 2000, the nature of

their relationship had evolved and culminated in three incidents of physical contact near Easter of 2001.

### **Medical Services**

4. Shortly after the complainant began to work for Dr. Shiozaki in 1991, she attended in Kingston with Dr. A in relation to a physical ailment. Thereafter, the complainant considered Dr. A to be her family physician, upon whom she attended for general assessments (physicals) and all other invasive procedures or examinations. Dr. A's Kingston office is approximately a one hour drive from Dr. Shiozaki's office. Dr. A's patient chart for the complainant documents a number of visits to her office between 1991 and 2000. A review of the complainant's OHIP records, between 1996 and 2000 indicate that the complainant saw the following other medical practitioners for the following reasons:

- Dr. B                      Assessments for circulatory problems and/or chest pain and menstrual disorders
- Dr. C                      Emergency treatment of dermatological issue
- Dr. D                      Ophthalmological assessments
- Dr.E                      General assessment
- Dr. F                      Treatments for varicose veins
- Dr.G                      Emergency assessment for superficial injuries
- Dr.H                      Chiropractic services
- Dr.I                      Assessment for circulatory problems and /or chest pain

5. During the course of her employment with Dr. Shiozaki and while she was under the care of Dr. A, Dr. Shiozaki provided medical services to the complainant in relation to minor transitory ailments. These services were never invasive and involved treating poison ivy, allergies, colds or bronchitis, supervising acupuncture, prescribing thyroid medication or performing back manipulations. If necessary, he would order blood tests or prescribe medication in connection with these complaints. On one occasion he provided a flu shot and, on another

occasion, a polio/tetanus booster. They were provided as a convenience to the complainant, to save her the lengthy trip to Kingston to attend at her family physician. The services were provided at the complainant's request but without scheduled appointments. According to OHIP billing records, the only services provided by Dr. Shiozaki after Christmas of 2000 were as follows:

- February 2, 2001      Minor assessment re osteoarthritis and back manipulation
- February 15, 2001    Minor assessment re osteoarthritis and blood drawn for TSH test
- March 8 or 9, 2001    Suture of a skin laceration

Dr. Shiozaki did not provide any services to the complainant after March 8 or 9, 2001.

6. On March 16, 2001, the complainant attended upon Dr. J in Kingston to address a number of health concerns. Thereafter, Dr. J continued to be the complainant's family physician.

### **Evolution of the Relationship**

7. In the summer of 2000, the complainant began to visit Dr. Shiozaki's office when the office was closed to patients and when other staff members were not present. She attended at his office without invitation to discuss many topics including day to day issues, coping with the death of her father in law, topics of mutual interest, and problems with her children. These visits were not considered by either the complainant or Dr. Shiozaki to be medical visits for counselling nor did any OHIP billings result. the complainant continued to drop in to see Dr. Shiozaki until Easter of 2001. As of the fall of 2000, these office visits coincided with ongoing email correspondence between Dr. Shiozaki and the complainant.
8. After Christmas of 2000, the relationship evolved, beginning with some affectionate touching. The touching then turned into sporadic hugs at the beginning of the work day. As time went on, the hugs became more frequent.

After several weeks, Dr. Shiozaki and the complainant kissed on the lips. The kissing occurred during working hours as well as when the complainant attended Dr. Shiozaki's office after hours.

9. The hugging and kissing led to the admitted misconduct on three separate occasions. Although the precise dates of these incidents are unknown, the time frame was at the end of March 2001 and early April 2001, weeks after Dr. Shiozaki sutured the complainant's hand, the last medical service he provided, and after she had seen Dr. J as her family physician, and while she was working part time for Dr. Shiozaki.
10. On the three occasions, they met at Dr. Shiozaki's office when no one else was there. On the first occasion, in an exchange of physical touching, Dr. Shiozaki fondled and kissed the complainant's breasts. The complainant does not recall what preceded this physical contact. On the second occasion, in the course of further mutual touching, Dr. Shiozaki put his right hand under the waistband of the complainant's jeans, into her underwear. On the third occasion, after both the complainant and Dr. Shiozaki had fully disrobed, Dr. Shiozaki lay on top of the complainant on the office floor. Dr. Shiozaki did not have an erection, and the complainant kept her legs together. While the complainant is uncertain as to most of the events surrounding these inappropriate interactions, she made no efforts to stop the physical contact. On each of these occasions, the complainant was under the influence of alcohol as she was drinking vodka heavily during this time period. Dr. Shiozaki was unaware of her alcohol consumption.

## **II. FINDING REQUESTED**

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

That Dr. Shiozaki committed acts of professional misconduct in that he engaged in conduct relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

## **FINDING**

The Committee accepted as true all of the facts set out in the Statement of Facts. Having regard to these facts and Dr. Shiozaki's admission, the Committee made the finding that Dr. Shiozaki committed professional misconduct:

- contrary to 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.

## **PENALTY AND COSTS ORDER AND REASONS**

The Committee considered the principles that are appropriate to the determination of penalty. These include protection of the public, denunciation of the offending conduct, specific and general deterrence, rehabilitation, and preservation of the integrity of the profession and the role of the College in regulating its members.

The Committee received a joint submission on penalty from counsel for the parties and concluded that it was appropriate in all of the circumstances. In coming to this conclusion, it was felt that, while this might be an isolated incident, the disgraceful behaviour on the part of Dr. Shiozaki brings disrepute to the profession. The impact of his misconduct on patients was set out in the victim's impact statement.

While the Committee was cognizant of the impact on the community of the withdrawal of Dr. Shiozaki's services during the suspension period, it was agreed that his serious misconduct was deserving of a serious penalty that will act as both a specific deterrent to Dr. Shiozaki and as a general deterrent to the profession.

Mitigating factors considered in accepting the joint submission included the fact that, until the events that lead to the finding of professional misconduct, Dr. Shiozaki had no prior disciplinary record and has served his patients honourably for the past twenty-two years. This was reflected in the briefs of letters filed as exhibits with the Committee.

The Panel is also cognizant that, unless the joint submission proposes a penalty that contains or omits terms that would tend to bring the administration of justice into disrepute, they should accept the penalty proposed and not tamper with the proposed terms.

### **ORDER**

Therefore, the Discipline Committee ordered and directed that:

1. The Registrar suspend Dr. Shiozaki's certificate of registration for a period of six (6) months, to commence on July 1, 2004. The Registrar shall suspend the last three (3) months of this suspension provided that:
  - (a) Dr. Shiozaki successfully completes a boundaries course acceptable to the College by October 31, 2004; and
  - (b) Dr. Shiozaki posts security by way of a letter of credit in the amount of \$10,000, to guarantee the payment of any amount the College may pay out in respect of funding for therapy or counseling for the complainant (the letter of credit must be provided by July 1, 2004 and shall be valid for a period of five years);

If these conditions are not met, Dr. Shiozaki shall serve the last three (3) months of his suspension commencing on November 1, 2004.

2. Dr. Shiozaki attend before the panel to be reprimanded, with the fact of the reprimand to be recorded on the register.
3. Dr. Shiozaki pay costs to the College in the amount of \$3,000, to be paid by July 1, 2004.

At the conclusion of the hearing, Dr. Shiozaki waived his right to appeal under s.70 of the Code and the Committee administered the reprimand.