

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Munjal Shirish Parikh, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity and any information that would disclose the identity of Patient A 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: Parikh, M. (Re)

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

IN THE MATTER OF a Hearing directed
by the Inquiries, Complaints and Reports Committee of
the College of Physicians and Surgeons of Ontario
pursuant to Section 26(1) 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. MUNJAL SHIRISH PARIKH

PANEL MEMBERS:

**DR. M. GABEL
S. BERI
DR. P. POLDRE
M. THOMPSON
DR. S. KAPOOR**

Hearing Date: December 5, 2012
Decision Date: December 5, 2012
Release of Written Reasons: April 12, 2013

PUBLICATION BAN

DECISION AND REASONS FOR DECISION

The Discipline Committee (the “Committee”) of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on December 5, 2012. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty and costs order with written reasons to follow.

THE ALLEGATIONS

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

1. under paragraph 1(1)33 of Ontario Regulation 856/93 (“O. Reg. 856/93”) made under the *Medicine Act, 1991*, in that he has engaged in 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;
2. under clause 51(1)(b.1) of the Health Professions Procedural Code, which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18 (the “Code”) in that he engaged in the sexual abuse of a patient; and
3. under paragraph 1(1)2 of O. Reg. 856/93 in that he has failed to maintain the standard of practice of the profession;

The Notice of Hearing also alleged that Dr. Parikh is incompetent as defined by subsection 52(1) of the Code.

RESPONSE TO THE ALLEGATIONS

Dr. Parikh admitted the first allegation of professional misconduct in the Notice of Hearing, that he has engaged in 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 remainder of the professional misconduct allegations and the allegation of incompetence.

FACTS AND EVIDENCE

The following facts were set out in an Agreed Statement of Facts and Admission which was filed as an exhibit and presented to the Committee:

PART 1- FACTS

1. Dr. Munjal Shirish Parikh (“Dr. Parikh”) is a 54 year old family physician practising in North York, Ontario.
2. Patient “A” was Dr. Parikh’s patient between 1994 and 2006. Her last appointment was September 5, 2006. Attached as Schedule A [to the Agreed Statement of Facts and Admission] is a copy of Patient A’s chart including Dr. Parikh’s transcription of selected pages. Attached as Schedule B [to the Agreed Statement of Facts and Admission] are OHIP billing records based on Dr. Parikh’s treatment of Patient A between April 2001 and September 2006.
3. Dr. Parikh was also the family physician for Patient A’s three children.
4. During medical appointments, Patient A sought treatment for issues including: depression; bereavement issues and involvement with the Children’s Aid Society (CAS). Dr. Parikh prescribed medications to Patient A related to her anxiety and depression and also provided referrals for psychiatric care for Patient A.
5. According to OHIP billing records Dr. Parikh treated her 14 times in 2001; 24 times in 2002; 10 times in 2003; 22 times in 2004; 20 times in 2005 and 24 times in 2006 (between January and September).

6. In 2006 Patient A was charged with assaulting one of her children, who was made a ward of the CAS. Following Patient A's arrest, she suffered a breakdown and was admitted to the mental health department of Hospital X for ten days.
7. After a counselling session in 2006 during which Patient A's difficult situation with the criminal court and with the CAS was discussed, in his examination room, without a chaperone present, Dr. Parikh initiated a hug with Patient A. Although Dr. Parikh indicates that was a supportive hug, Patient A believed that sexual intent was present.
8. During 2006, Dr. Parikh gave Patient A sums of money which amounted to approximately \$7000 in cash to assist her with her financial difficulties arising from expenses related to her criminal proceedings.
9. Dr. Parikh provided Patient A with his cell phone number. In 2005 and 2006, Dr. Parikh and Patient A engaged in cell phone contact. Attached as Schedule C [to the Agreed Statement of Facts and Admission] is a chart outlining outgoing cell phone calls from Dr. Parikh to Patient A. Attached as Schedule D [to the Agreed Statement of Facts and Admission] is a chart outlining outgoing cell phone calls from Patient A to Dr. Parikh.

PART 2- ADMISSION

10. Dr. Parikh admits the facts as set out above, which illustrate his serious errors in failing to maintain appropriate boundaries with Patient A. Dr. Parikh admits that the conduct described constitutes acts or omissions relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonorable or unprofessional contrary to paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act*, 1991.

FINDING

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts and Admission. Having regard to these facts, the Committee accepted Dr. Parikh's admission and found that he committed an act of professional misconduct, in that he has engaged in 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 the member made a joint submission as to an appropriate penalty and costs order. The Committee was mindful of the law that a joint submission should be accepted unless to do so would be contrary to the public interest and would bring the administration of justice into disrepute.

The penalty principles that guided the Committee were that the penalty to be imposed should protect the public and maintain the integrity of the profession and public confidence in the profession's ability to regulate itself. The penalty should serve as a specific deterrent against future unprofessional behaviour by the member, as well as a general deterrent to the membership at large. To the extent necessary, the penalty should also aim to rehabilitate the member. The Committee wanted to ensure that the penalty in this case would convey the message to all College members that it is important to maintain professional boundaries with patients.

The Committee considered aggravating and mitigating factors. Mitigating factors included the fact that Dr. Parikh took responsibility for his actions, saved the College the costs and time of a contested hearing, and saved the complainant from having to testify, by admitting to his misconduct and agreeing to the facts and to a joint submission on penalty. Further, Dr. Parikh has been cooperative throughout this process. Finally, Dr. Parikh has already undertaken a rehabilitative measure on his own accord, by taking the course on Understanding Boundaries.

The Committee found that the serial nature of the boundary violations in which Dr. Parikh engaged with a vulnerable patient was an aggravating factor. First, Dr. Parikh initiated a hug with Patient A that, according to Dr. Parikh, was intended to be supportive, but was perceived by Patient A as having sexual intent. Second, Dr. Parikh provided Patient A with his personal cell phone number, and, in addition to receiving calls, also made outgoing calls to Patient A. Finally, Dr. Parikh provided Patient A with \$7,000 in cash to assist her with her financial difficulties.

The Committee was satisfied that the proposed penalty was consistent with the penalties ordered in four previous cases involving boundary violations that were included in a Book of Authorities that was filed with it.

The Committee accepted the penalty and costs order jointly proposed as being in the public interest, and appropriate in the circumstances of this case. The Committee concluded that the proposed two-month suspension would maintain the integrity of the profession and public confidence in the profession's ability to regulate itself, as well as act as a specific deterrent to Dr. Parikh and a general deterrent to the public at large. The reprimand would also meet those goals as well as express the Committee's abhorrence of Dr. Parikh's behaviour. The requirement that Dr. Parikh make a female chaperone available for female patients would protect the public against any future boundary violations. Finally, the requirement that Dr. Parikh complete ethics and boundary courses would assist with his rehabilitation.

The Committee was satisfied that this was an appropriate case in which to order that Dr. Parikh pay a portion of the costs incurred in conducting the hearing.

ORDER

Therefore, having stated the findings in paragraph 1 of its written order of December 5, 2012, on the matter of penalty and costs, the Committee ordered and directed that:

2. Dr. Parikh attend before this panel to be reprimanded.
3. the Registrar suspend Dr. Parikh's certificate of registration for a period of two (2) months commencing on December 6, 2012.
4. the Registrar impose the following terms, conditions and limitations on Dr. Parikh's certificate of registration:
 - a) Dr. Parikh must successfully complete, at his own expense, College-facilitated instruction in Ethics within the next year.
 - b) Dr. Parikh must successfully complete, at his own expense, College-facilitated instruction in Understanding Boundaries.
 - c) Dr. Parikh shall ensure that he has available at all times he sees female patients, a female chaperone to be present during an appointment if a patient so requests.
 - d) Dr. Parikh shall post a sign in his waiting room and in each of his examination rooms, in clearly visible locations, that states: "A female chaperone is available to all female patients of Dr. Parikh. Please advise the receptionist or Dr. Parikh if you would like to have a chaperone present during your appointment."
 - e) Dr. Parikh shall ensure that information sheets are available in his waiting room at all times, advising patients that he will ensure that a chaperone is available to female patients, to be in attendance for any visit or part of a visit, if requested.
5. Dr. Parikh pay costs to the College in the amount of \$3,650.00 within 60 days of the date of this order.

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