

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Brian Sheffield, 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 the patients whose names are disclosed 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: Sheffield, B. (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(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. BRIAN SHEFFIELD

PANEL MEMBERS:

DR. M. GABEL (CHAIR)
G. DEVLIN
DR. F. SLIWIN
DR. E. ATTIA (PhD)
DR. J. WATTS

Hearing Date: June 20, 2011
Decision Date: June 20, 2011
Release of Written Reasons: September 27, 2011

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 June 20, 2011. 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. Brian Sheffield committed an act of professional misconduct:

1. under paragraph 1(1)2 of Ontario Regulation 856/93 made under the *Medicine Act*, 1991 (“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. Sheffield is incompetent as defined by subsection 52(1) of the Health Professions Procedural Code (“the Code”), which is Schedule 2 to the *Regulated Health Professions Act*, 1991, in that his care of patients displayed a lack of knowledge, skill or judgment or disregard for the welfare of his patients of a nature or to an extent that demonstrates that he is unfit to continue to practise or that his practice should be restricted.

RESPONSE TO THE ALLEGATIONS

Dr. Sheffield admitted the first allegation in the Notice of Hearing, that he committed an act of professional misconduct in failing to maintain the standard of practice of the profession. The College withdrew the allegation of incompetence.

FACTS AND EVIDENCE

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

FACTS

Background

1. Dr. Brian Sheffield (“Dr. Sheffield”) is a member of the College of Physicians and Surgeons of Ontario (the “College”) who was issued a certificate of registration authorizing independent practice in 1972.
2. Dr. Sheffield obtained his medical degree at the University of Toronto and is a family physician practicing in Richmond Hill, Ontario.
3. In January 2008, the College was contacted by a pharmacist who was calling on behalf of a collective of pharmacists that had concerns about Dr. Sheffield’s narcotics prescribing practices and his lack of availability to confirm patient information for narcotics prescriptions.
4. In November, 2008, the York Regional Police also contacted the College expressing concerns regarding Dr. Sheffield’s narcotics prescribing.

College’s Investigation

5. As a result of this report, the College commenced an investigation into Dr. Sheffield’s care and treatment of patients, including his prescribing practices. As part of the College’s investigation, Dr. X was appointed as a medical inspector to provide an opinion regarding Dr. Sheffield’s care and management of 24 patients in relation to his prescribing of narcotics and controlled drugs and substances.
6. Dr. X reviewed the 24 patient charts and provided her opinion to the College. In her report dated February 16, 2009, she identified consistent concerning patterns in Dr. Sheffield’s assessment, diagnosis, treatment and follow up care of patients and had

particular concerns with his prescribing habits, which were often for “extremely excessive amounts of opioid medications”. Dr. X specifically noted that a number of other physicians and pharmacists were concerned about the amount of opioids being prescribed by Dr. Sheffield.

7. Dr. X concluded that Dr. Sheffield did not meet the standard of practice of the profession in 22 of the 24 charts reviewed and that he displayed a lack of knowledge, skill and judgment and a disregard for the welfare of his patients. She opined that:

[Dr. Sheffield]... often did not seem to benefit from outside consultations and continued to prescribe excessively high dose of opioid medications. He also did not seem to pick up drug seeking behaviour and stop prescribing opioids for these patients.

As mentioned in many charts there was a serious lack of assessment and diagnosis before excessive amounts of opioids were prescribed. There was also a problem of adequate follow-up.

For quite a number of Dr. Sheffield’s patients, they came seeking relief for pain and in the process developed a serious drug dependency.

A copy of Dr X’s report, received on February 23, 2009, is attached at Appendix “A” [to the Agreed Statement of Facts and Admission] and forms part of this Agreed Statement of Facts and Admission.

8. In response to the specific question of whether Dr. Sheffield’s clinical practice, behaviour or conduct exposes or is likely to expose his patients to harm or injury, Dr. X concluded:

Yes.

From the charts reviewed I would conclude that Dr. Sheffield’s patients are more likely to have negative outcomes e.g. tolerance, addiction, gastrointestinal disturbances including abdominal pain and constipation,

headaches, dizziness, sedation, nausea, vomiting, and to be caught in a cycle of pain and rebound pain from the medications prescribed. The Compendium of Pharmaceuticals and Specialties gives a very clear warning: “that Percocet can produce drug dependency of the morphine type and therefore has the potential to be abused. Psychic dependence, physical dependence, and tolerance may develop upon repeated administration of Percocet, and it should be prescribed and administered with the same degree of caution appropriate to the use of other oral medication containing opioids.”

There were at least three examples in the charts (Patient A, Patient B, Patient C) where pain specialists specifically addressed the issue of drug dependency and noted “that the family doctor should abstain from increasing daily opioids.” (Patient A.) Several other specialists pointed out in their reports that “the patient is at high risk of addiction, so no narcotics were ordered for this patient.” (Patient B.) In another patient (Patient C), the pain specialist in the report suggested to “wean off all opioids and suggested a referral to an addictions specialist.”

In every case, Dr. Sheffield continued to prescribe large amounts of opioid medication, even though pain specialist had specifically recommended against this, so Dr. Sheffield was not making use of recommendations from pain specialists. Pain clinics, as a general rule, do not prescribe ever increasing amounts of opioids for pain and suggest many alternatives eg. exercise, yoga, massage, physiotherapy, relaxation therapy, meditation, acupuncture. Dr. Sheffield only rarely referred to physiotherapy, and none of the other modalities.

9. In response to the concerns expressed in Dr. X’s report, Dr. Sheffield acknowledged that he had not been as sceptical as he should be with respect to some patients.

10. Also in response to these concerns, in May, 2010, Dr. Sheffield successfully completed the College's prescribing course.

Interim Undertaking

11. On May 13, 2009, Dr. Sheffield entered into an Undertaking with the College in which he agreed not to prescribe or to renew any narcotic medications, narcotic preparations or controlled drugs or substances, with the exception of testosterone.

Admission

12. Dr. Sheffield admits the facts set out above and admits that he failed to maintain the standard of practice of the profession in respect of his prescribing to patients.

13. Dr. Sheffield admits that this constitutes professional misconduct under paragraph 1(1)2 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. Sheffield's admission and found that he committed an act of professional misconduct, in that he has failed to maintain the standard of practice of the profession.

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.

In considering this joint submission, the Committee took into account that Dr. Sheffield's act of professional misconduct took place over a long period of time. During this period, large dosages of narcotics and large quantities of narcotics were prescribed to a number

of patients. Dr. Sheffield failed to appropriately assess patients before prescribing narcotics and failed to follow up in cases where narcotics were prescribed. He treated patients with narcotics without taking the necessary steps to monitor improvement or watch for dependence. He acknowledged that he had not been as skeptical as he should have been with respect to some patients.

The Committee considered the following specific concerns, which arose as a result of the medical inspection of Dr. Sheffield's care and management of several patients:

- Dr. Sheffield's failure to provide adequate initial and ongoing assessment
- Dr. Sheffield's failure to address addiction
- Dr. Sheffield's failure to refer to addiction specialists
- Dr. Sheffield's failure to address drug-seeking behaviour
- Dr. Sheffield's failure to refer to pain specialists
- Dr. Sheffield's failure to follow recommendations by pain specialists to decrease opioids; and
- Dr. Sheffield's failure to propose alternative treatments for pain

The Committee also considered the following mitigating factors:

- Dr. Sheffield admitted he fell below the standard of care and accepted responsibility for his serious misconduct.
- By his admission, Dr. Sheffield has saved the College the necessity of proceeding with a full contested hearing.
- Dr. Sheffield completed the College prescribing course of his own volition; and
- Dr. Sheffield has no prior history with the Discipline Committee.

In considering the proposed penalty, the Discipline Committee is cognizant of the legal requirement that a joint submission must be accepted unless it is contrary to the public interest and would bring the administration of justice into disrepute.

The Committee concluded that the proposed penalty implements the principles of penalty that must be taken into account in the determination of an appropriate penalty. Under the jointly proposed order, Dr. Sheffield will be prohibited from prescribing narcotics, controlled substances and benzodiazepines; therefore, the public will be protected from future prescribing by a physician who has failed to maintain the standard of practice. Dr. Sheffield will post a sign in his office informing patients of the restrictions on his certificate of registration, and he will submit to unannounced inspections by the College and cooperate with the College in their monitoring of his compliance. This will provide further public protection and maintain public confidence in the College's ability to govern the practice of medicine in the public interest. The public reprimand will provide both specific and general deterrence. In addition, the Committee is of the opinion that this is an appropriate case to order costs for a one-day hearing at the tariff rate.

The Discipline Committee reviewed the cases provided in the Book of Authorities filed and agrees that the proposed penalty is proportionate to penalties imposed by this Committee in similar cases in the recent past.

ORDER

Therefore, the Committee ordered and directed that:

1. The Registrar impose the following terms, conditions and limitations on Dr. Sheffield's Certificate of Registration:
 - (a) Dr. Sheffield shall not prescribe any drug that is:
 - (i) Narcotic Drugs (from the Narcotic Control Regulations made under the *Controlled Drugs and Substances Act*, S.C., 1996, c. 19);
 - (ii) Narcotic Preparations (from the Narcotic Control Regulations made under the *Controlled Drugs and Substances Act*, S.C., 1996, c. 19);

- (iii) Controlled Drugs (from Schedule G of the Regulations under the *Food and Drugs Act*, S.C., 1985, c. F-27); or
- (iv) Benzodiazepines/Other Targeted Substances (from the Benzodiazepines and Other Targeted Substances Regulations made under the *Controlled Drugs and Substances Act*, S.C., 1996, c. 19)

(A summary of the above-named drugs [from Appendix I to the Compendium of Pharmaceuticals and Specialties] is attached [to the Order] as Schedule “A”; and the current regulatory lists are attached [to the Order] as Schedule “B”)

- (b) Dr. Sheffield shall post a sign that is clearly visible upon entering his office(s) in the form set out at Schedule “C” [to the Order]. For further clarity, this sign shall state as follows: “Dr. Sheffield is prohibited from prescribing Narcotic Drugs, Narcotic Preparations, Controlled Drugs, Benzodiazepines and Other Targeted Substances”; and
- (c) Dr. Sheffield shall cooperate with unannounced inspections of his practice and patient charts and such other steps as the College may take for the purpose of monitoring and enforcing his compliance with the terms of the Order.

2. Dr. Sheffield pay costs to the College in the amount of \$3,650.00 within thirty (30) days from the date of this Order.

3. Dr. Sheffield appear before it to be reprimanded.

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