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**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 26(2)
of the *Health Professions Procedural Code*,
being Schedule 2 to the
Regulated Health Professions Act, 1991,
S.O. 1991, c.18, as amended

BETWEEN:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and –

DR. CHRISTOPHER PAUL BRAND

PANEL MEMBERS: DR. J. WATTS(CHAIR)
 DR. P. NOBLE
 DR. M. LYVER
 P. BEECHAM
 V. GRIFFITHS

Hearing Date: January 22, 2002
Decision/Released Date: January 22, 2002

DECISION AND REASONS FOR DECISION

The Discipline Committee of the College of Physicians and Surgeons of Ontario heard this matter on January 22, 2002 at Toronto.

ALLEGATIONS

It was alleged in the amended Notice of Hearing that Dr. Christopher Paul Brand had committed an act of professional misconduct as defined in:

1. paragraph 1(1)(2) of Ontario Regulation (“O. Reg. 856/93”) made under the *Medicine Act 1991*, in that he failed to maintain the standard of the profession;
2. paragraph 1(1)33 of O. Reg. 856/93, in that he 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; and
3. paragraph 1(1)34 of O. Reg. 856/93, in that he had engaged in conduct unbecoming a physician.

The College withdrew allegations 1 and 3. Dr. Brand pleaded guilty to allegation 2 that he had 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.

The Amended Notice of Hearing was then entered as Exhibit 1.

STATEMENT OF AGREED FACTS

The College and the physician jointly submitted a Statement of Agreed Facts, which was entered as Exhibit 2.

In August 1998, the College became aware that Dr. Brand, a general practitioner, had begun prescribing narcotics to his wife. Subsequently, a medical inspector appointed by the Registrar reviewed the medical charts of thirteen (13) of Dr. Brand’s patients. On May 3, 1999, Dr. Brand entered into an undertaking in which he agreed to, among other things:

- (a) relinquish his privilege to prescribe narcotics and controlled drugs;
- (b) attend the College's "Focus on Prescribing Skills" course;
- (c) attend the College's "Medical Record-Keeping" course;
- (d) give up his emergency medicine practice as of May 1, 1999;
- (e) undertake a PREP assessment;
- (f) re-inspection of his practice;
- (g) pursue counselling and therapy recommended by his therapist, Dr. A; and
- (h) not provide medical treatment to his wife

Dr. Brand undertook the courses and counselling. However, in violation of his undertaking, he worked emergency shifts at Soldiers' Memorial Hospital in Orillia on December 12 and 25, 1999, January 1 and 2, February 11 and 13, and March 4, 2000. He worked these shifts in response to a severe shortage of emergency physicians at that time.

Furthermore, on re-inspection of Dr. Brand's practice, inappropriate remarks, which related to the medical inspector responsible for the original chart review, were found in three charts. In two cases, it appeared that the remarks were recordings of comments made by patients. Dr. Brand admitted to having entered these comments, acknowledged that these comments were unacceptable and apologized to the medical inspector personally.

The Committee heard from counsel for the defence that the offences that had led to the May 1999 undertaking resulted from a combination of difficulties in Dr. Brand's personal life and his "workaholic" personality. The inappropriate chart remarks were made out of a sense of frustration and Dr. Brand had apologized unreservedly. Defence counsel also stated that, in addition to the completion of all matters included in the undertaking, Dr. Brand spontaneously ceased his obstetric practice in order to reduce his workload.

The Committee received a brief of testimonial letters from the Chief of Staff, a general surgeon and the Executive Director at the hospital where Dr. Brand works and where he refers his patients. Further letters were received from the administrator of a nursing home for which Dr. Brand is the medical advisor and also from several patients.

DECISION

Counsel for the College and counsel for the defence made a joint submission regarding penalty.

The Committee felt that the joint submission regarding penalty appropriately took into account the mitigating factors of Dr. Brand's contrition and his apologies to the physician reviewer and to the College. In addition, the Committee recognized that Dr. Brand's decision to work the emergency room shifts was well intentioned. The submitted penalty was sensitive to the needs of patients and nursing homes in a relatively under serviced area and recognized that the offences had their origin in an unwise willingness to help others and out of a sense of frustration.

However, the Committee also felt that the failure to adhere to an undertaking made to the College should be viewed seriously. It was the Committee's opinion that the proposed penalty was appropriate and met the standard for specific deterrence, as well as deterrence of such offences by the profession at large. Furthermore, there were elements of appropriate remediation and rehabilitation.

The Committee, therefore, imposes the following penalties:

1. Dr. Brand is to be reprimanded and the fact of the reprimand is to be recorded on the Register.
2. Dr. Brand is to pay costs, in the amount of \$5,000, to the College of Physicians and Surgeons of Ontario.
3. Dr. Brand's Certificate of Registration is to be suspended for a period of 4 months, the period of suspension to start not before February 1 and at a time acceptable to the Registrar. Three months of the period of suspension will be suspended if Dr. Brand agrees to take an ethics course acceptable to the Registrar and at Dr. Brand's expense. Failure to successfully complete such a course and to report completion to the Registrar within 12 months will result in the remaining 3 months suspension being imposed.

Dr. Brand waived his right to appeal and appeared before the Committee to be reprimanded.