

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Daniel Charles Sweet, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of patients or any information that could disclose their identity under subsection 45 of the *Health Professions Procedural Code* (the Code), which is Schedule 2 to the *Regulated Health Professions Act, 1991*.

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: Sweet (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(2)
of the *Health Professions Procedural Code*,
being Schedule 2 to 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. DANIEL CHARLES SWEET

PANEL MEMBERS: DR. P. CHART (CHAIR)
J. DHAWAN
DR. M. DAVIE
DR. N. DE
H. WALKER

Hearing Date: June 3, 2004
Decision/ Release Date: June 3, 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 June 3, 2004. At the conclusion of the hearing the Committee stated its finding that the member committed professional misconduct and delivered its penalty order, with written reasons to follow.

PUBLICATION BAN

The Discipline Committee ordered that no person shall publish or broadcast the identity of patients or any information that could disclose their identity under subsection 45 of the *Health Professions Procedural Code* (the Code), which is Schedule 2 to the *Regulated Health Professions Act, 1991*. The Committee concluded that the public interest in protecting the confidentiality of the health information of patients outweighed the desirability of public disclosure in that respect.

ALLEGATION

The Notice of Hearing alleged that Dr. Sweet committed an act of professional misconduct 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 ALLEGATION

Dr. Sweet admitted to the allegation of professional misconduct as set out in the Notice of Hearing.

EVIDENCE

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

PART I – STATEMENT OF FACTS

1. At all material times, Dr. Daniel Charles Sweet (“Dr. Sweet”) was a physician with a certificate of registration in Ontario.
2. In July 2001, the Executive Committee imposed an interim order under section 37 of the Health Professions Procedural Code, prohibiting Dr. Sweet from prescribing “... narcotics, controlled drugs, stimulants and benzodiazepines” (“the July 12, 2001 Order”). The July 12, 2001 Order was in effect between July 12, 2001 and August 6, 2002.
3. On August 6, 2002, the Discipline Committee imposed the following terms, conditions and limitations on Dr Sweet’s certificate of registration (“the August 6, 2002 Order”):
 - i.) that Dr. Sweet be restricted from prescribing any controlled substances as defined by the *Controlled Drugs and Substances Act*, 1996, being any substance included in Schedules I, II, III, IV and V of that Act;
 - ii.) that Dr. Sweet display a sign in plain view to patients entering his office waiting room notifying patients that he is restricted from prescribing any controlled substances included in Schedules I, II, III, IV and V of *the Controlled Drugs and Substances Act*, 1996;
 - iii.) that the terms, conditions and limitations on Dr. Sweet’s certificate of registration, as set out in paragraphs (i) and (ii) above, shall remain in full force and effect unless and until they are removed or varied by a subsequent panel of the Discipline Committee on application for that purpose.
4. Despite the July 12, 2001 Order which prohibited Dr. Sweet from prescribing narcotics, controlled drugs, stimulants and benzodiazepines, Dr. Sweet prescribed Tylenol #3 to patient A, on July 17, 2002. This prescription was not repeated by Dr.

Sweet. In addition, Dr. Sweet wrote two prescriptions for clonazepam (one on June 10, 2002 and one on July 26, 2002) for another patient, patient B.

5. In contravention of the August 6, 2002 Order prohibiting Dr. Sweet from prescribing narcotics, controlled drugs, stimulants and benzodiazepines, Dr. Sweet wrote three prescriptions for clonazepam for a third patient, patient C in February, July and August, 2003.

6. Dr. Sweet has professional supports in place. He sees his own treating psychiatrist regularly. He also meets with a clinical supervisor once a month, pursuant to an undertaking given to the College of Physicians and Surgeons of Ontario.

7. Dr. Sweet admits that, by prescribing in contravention of the July 12, 2001 Order and the August 6, 2002 Order, he committed acts relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

PART II – FINDING REQUESTED

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

- (a) that Dr. Sweet committed an act of professional misconduct under paragraph 29.33 of Ontario Regulation 548/90 and paragraph 1(1)33 of Ontario Regulation 856/93, in that he has engaged in conduct or an act or acts 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. Sweet's admission, the Committee made the finding that Dr. Sweet committed an act of professional misconduct under paragraph 29.33 of Ontario

Regulation 548/90 and paragraph 1(1)33 of Ontario Regulation 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.

PENALTY ORDER AND REASONS

The Committee understands as a matter of law that where a penalty is proposed by way of joint submission, it should be given great weight and accepted unless the Committee is of the view that imposing it would bring the administration of justice into disrepute. The Committee is of the view that the penalty submitted jointly by the parties does not have this affect. The proposed penalty satisfies the principles that must be met in determining an appropriate penalty as well as ensuring that the public is protected.

The penalty of a three-month suspension is serious and reflects the Committee's view of the gravity of Dr. Sweet's misconduct in that he contravened an order made by the College. Directives of the College of Physicians and Surgeons must be followed in order for self-regulation to be meaningful and for the public to be protected.

As mitigating factors, the Committee took into account the fact that Dr. Sweet co-operated throughout with the College and that Dr. Sweet gave an undertaking which included both a mentoring process and ongoing psychiatric treatment, with regular reporting to the College. The Committee also agrees with the requirement of the successful completion of an ethics course acceptable to the College as a condition of Dr. Sweet's continued practice.

After receiving in evidence through counsel information regarding the amount of drug dispensed, the Committee was reassured that Dr. Sweet did not endanger the public in prescribing the medication at issue.

ORDER

Therefore, the Discipline Committee ordered and directed that:

1. The Registrar suspend Dr. Sweet's certificate of registration for a period of three (3) months, to commence on July 1, 2004.
2. The terms, conditions and limitations currently on Dr. Sweet's certificate of registration shall remain in full force and effect.
3. The following term, condition and limitation be imposed on Dr. Sweet's certificate of registration:
 - a) Dr. Daniel Charles Sweet must successfully complete an ethics course acceptable to the College by October 31, 2004.
4. If the Registrar receives information, which indicates that there has been failure to comply with any terms of this Order, the Registrar shall suspend Dr. Sweet's certificate of registration immediately and provide Dr. Sweet with fourteen days' notice that the matter will be reported to the Executive Committee.