

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(1)
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:

**S. DAVIS (CHAIR)
E. ATTIA (Ph.D.)
DR. M. GORDON
DR. P. ZITER
DR. F. SLIWIN**

Hearing Date: April 29, 2008
Decision/Release Date: April 29, 2008
Release of Written Reasons Date: June 30, 2008

DECISION AND REASONS FOR DECISION

The Discipline Committee of the College of Physicians and Surgeons of Ontario (the “Committee”) heard this matter at Toronto on April 29, 2008. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty order in writing, with written reasons to follow.

THE ALLEGATION

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

1. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act*, 1991 (“O. Reg. 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.

RESPONSE TO THE ALLEGATION

At the outset of the hearing, Dr. Sweet admitted to the allegation set out in the Notice of Hearing.

FACTS AND EVIDENCE

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

PART I – FACTS

1. Dr. Daniel Charles Sweet (“Dr. Sweet”) is a family doctor practising in Ottawa. At all material times he was a member of the College of Physicians and Surgeons of Ontario (the “College”).

2. Dr. Sweet had previously been primarily engaged in addiction counselling and group therapy related to addiction issues. He also treated patients with chronic pain and those with dual diagnosis (i.e. drug dependent and Axis. I psychiatric diagnosis). Pursuant to an Undertaking Dr. Sweet entered into in October 2006, he is now only practicing in the area of General Family Medicine.
3. This is the third Discipline Committee hearing concerning Dr. Sweet.
4. Dr. Sweet's first Discipline hearing concerned his prescribing practices and in particular, instances in which he offered opioid maintenance and withdrawal to opioid dependent individuals.
5. Prior to the hearing, in July 2001, the Executive Committee imposed an interim order under s. 37 of the Health Professions Procedural Code prohibiting Dr. Sweet from prescribing "... narcotics, controlled drugs, stimulants and benzodiazepines." The order went into effect on July 12, 2001, and remained in effect until August 6, 2002, the date of this first hearing.
6. Dr. Sweet's first hearing was held on August 6, 2002 where Dr. Sweet admitted the allegation of incompetence. In addition to an order for Dr. Sweet to pay the College's costs of \$2500, the Committee imposed the following terms, conditions and limitations on Dr. Sweet's certificate of registration:
 - (ii) 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;
 - (iii) 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;
 - (iv) 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.

7. Dr. Sweet's second Discipline Committee hearing occurred on June 3, 2004. In this hearing, Dr. Sweet admitted to the allegation of professional misconduct based on evidence that he had written a total of six prescriptions for three patients in 2002 and 2003, in contravention of the two Orders from 2001 and 2002 that he not prescribe narcotics and controlled substances.
8. Dr. Sweet admitted that by prescribing in contravention of both Orders, he committed acts relevant to the practice of medicine that, having regard to all the circumstances, would be reasonably be regarded by members as disgraceful, dishonourable or unprofessional. The Order dated June 3, 2004 reflecting these admissions suspended Dr. Sweet's certificate of registration for a period of three months to commence on July 1, 2004. In addition, the Discipline Committee directed that:
 - i. The terms, conditions and limitations currently on Dr. Sweet's certificate of registration shall remain in full force and effect.
 - ii. Dr. Daniel Sweet must successfully complete an ethics course acceptable to the College by October 31, 2004.
 - iii. If the Registrar receives information which indicates that there has been a 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.
9. For several years, Dr. Sweet maintained a private office practice in Ottawa. In 2006, Dr. Sweet joined a medical group, an organization which operates several clinics in Ottawa. In late 2006, Dr. Sweet closed his private practice and transferred his practice to the medical group. The medical group has a policy that

- narcotics are not prescribed to walk-in patients. Dr. Sweet's practice at the medical group includes both walk-in patients and family practice patients.
10. In December, 2006, College investigators attended unannounced at the address, which was the last known address in the College's records as Dr. Sweet's practice address. When the investigators arrived at that address, the office was closed and a sign was posted on the door indicating that the office had been closed since November 1, 2006 and that his patients could attend the medical centre located at an alternate address in order to receive treatment from Dr. Sweet.
 11. The investigators attended the medical centre at the address given and saw that there was no sign in the waiting area informing patients of the restrictions on Dr. Sweet's prescribing privileges. The receptionist at the clinic confirmed that Dr. Sweet worked out of that location and noted that he had been there for at least a couple of months. The investigators did not speak with either Dr. Sweet or his counsel regarding this visit.
 12. In February, 2007, the investigators returned to the medical centre and again noted that there were no signs indicating that Dr. Sweet did not prescribe controlled substances. On this occasion, the investigators spoke with Dr. Sweet about his obligation to have the sign posted in his office.
 13. In April, 2007, the College received a letter from Dr. Sweet's counsel, confirming that Dr. Sweet had not yet posted the sign, but that he would be posting it soon.
 14. Signs were eventually posted in Dr. Sweet's office locations in early May 2007; ten weeks after receiving notice from the College.

PART II – ADMISSION

15. Dr. Sweet admits the facts in paragraphs 1 to 14 above and admits that the failure to post the required sign in his office constitutes professional misconduct under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, 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 Agreed Statement of Facts and Admission. Having regard to these facts, the Committee accepted Dr. Sweet's admission and found that he committed an act of professional misconduct under paragraph 1(1)33 of O. Reg. 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 AND REASONS FOR PENALTY

Counsel for the College and counsel for the member made a joint submission as to an appropriate penalty and costs. The Committee is mindful of the fact that a joint submission made by the parties should be accepted unless doing so would be contrary to the interests of justice or would bring the administration of justice into disrepute.

The Committee took into consideration the fact that this is Dr. Sweet's third discipline hearing, and it is the second time that he has been found to be in breach of an order of the Discipline Committee. Self-regulation by the College is a privilege and, as such, it is of vital importance that members abide by all orders of the College. Dr. Sweet was well aware that it was his responsibility to make sure that a sign was posted with regard to his restriction on prescribing narcotics, wherever he practiced medicine.

The Committee considered the fact that Dr. Sweet admitted to the allegation, thereby negating the need for a full hearing, to be a mitigating factor.

The Committee felt that the penalty of a two month suspension properly reflects its disapproval of Dr. Sweet's conduct. It will serve as a general deterrent to the members of the College, by underlining that breaching an order of the Committee is not acceptable.

As well, the penalty will serve as a specific deterrent to Dr. Sweet. The terms, conditions and limitations that are currently on Dr. Sweet's certificate of registration will remain in force and continue to serve as protection for the public.

The Committee therefore accepted the joint submission as to penalty and costs made by counsel for the College and counsel for Dr. Sweet.

ORDER

The Committee ordered and directed that:

1. The Registrar suspend Dr. Sweet's certificate of registration for a period of two (2) months, to commence on May 1, 2008.
2. The terms, conditions and limitations currently on Dr. Sweet's certificate of registration shall remain in full force and effect.
3. Dr. Sweet appear before the Discipline Panel to be reprimanded.
4. Dr. Sweet pay costs to the College in the amount of \$3,650.00 within 60 days of the date of this Order.
5. The results of this proceeding be included in the register.

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