

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Thomas Richard James Gleeson, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of the patients or any information that could disclose the identity of the patients 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

- i) 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; and
- ii) 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 Gleeson (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. THOMAS RICHARD JAMES GLEESON

PANEL MEMBERS:

**DR. P. CHART
E. ATTIA (PHD)
DR. P. HORSHAM
B. FEVREAU
DR. T. MORIARITY**

Hearing Date: September 15, 2008
Decision/Release Date: September 15, 2008
Release of Written Reasons Date: October 30, 2008

PUBLICATION BAN

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 September 15, 2008. At the conclusion of the hearing, the Committee delivered its finding that the member committed an act of professional misconduct and its penalty order with written reasons to follow.

THE ALLEGATIONS

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

1. he failed to maintain the standard of practice of the profession under paragraph 27.21 of Ontario Regulation 448/80 and paragraph 29.22 of Ontario Regulation 548/90 made under the *Health Disciplines Act*, R.S.O. 1980 and under paragraph 1(1)2 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”).

The Notice of Hearing also alleged that Dr. Gleeson is incompetent.

RESPONSE TO THE ALLEGATIONS

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

FACTS AND EVIDENCE

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

FACTS

Background

1. Dr. Thomas Richard James Gleeson (“Dr. Gleeson”) is a member of the College

of Physicians and Surgeons of Ontario (the “College”) who received a certificate of registration authorizing independent practice on July 11, 1967. Dr. Gleeson obtained his medical degree in 1966. Dr. Gleeson currently practices as a family physician in Hamilton.

2. An investigation pursuant to section 75 of the Health Professions Procedural Code into Dr. Gleeson’s clinical care was commenced in April 2006. During the course of the investigation, Dr. Z was retained by the College and in 2007 provided an opinion regarding Dr. Gleeson’s care and treatment of forty patients. Most of the patients were being treated by Dr. Gleeson with opioid therapy.

3. Dr. Y was retained by Dr. Gleeson and in 2007 and 2008 provided opinions regarding Dr. Gleeson’s care and treatment of the same forty patients.

4. Dr. Z and Dr. Y agreed that, in twenty-three of the forty patient charts, the documentation fell below the standard of care. Specifically, Dr. Z and Dr. Y opined that Dr. Gleeson’s record-keeping failed to record pain and function, adverse effects of opioid and other analgesic therapy, and ambiguous drug-related behaviour. In addition, Dr. Gleeson’s documentation failed to record an overall plan of pain management as well as periodic assessments as to the patient’s progress towards the plan. The twenty-three charts are attached as Tab “A” [to the Agreed Statement of Facts and Admission].

5. In the case of one of the twenty-three patients, A, both Dr. Z and Dr. Y opined that Dr. Gleeson’s management of the patient fell below the standard of care. In particular, the dosage of Lorazepam prescribed was excessive. Further, Dr. Gleeson prescribed Lorazepam and methylphenidate to this patient without documenting a clear rationale.

ADMISSION

6. Dr. Gleeson admits the facts set out above and admits that he failed to maintain the standard of practice of the profession in his record-keeping for twenty-three patients and in his management of one patient.

FINDING

The Committee accepts as true all of the facts set out in the Agreed Statement of Facts and Admission. Having regard to these facts, the Committee accepts Dr. Gleeson's admission and finds that he committed an act of professional misconduct in that he failed to maintain the standard of practice of the profession.

PENALTY AND REASONS FOR PENALTY

Counsel for the College and counsel for Dr. Gleeson made a joint submission as to an appropriate penalty and costs.

Counsel for the College asked that, in deciding on the jointly proposed penalty, the Committee consider that an appropriate penalty should express the profession's abhorrence of the behaviour, uphold the honour and reputation of the profession, protect the public, act as both a general and specific deterrent and serve to rehabilitate the member.

College counsel submitted that Dr. Gleeson's record-keeping is clearly substandard and serious. He failed to document patients' pain, level of function and drug-related behaviours, all of which are extremely important in the care of patients and necessary in the case of future transfer of care. Further, Dr. Gleeson admitted that, in the case of one patient, the dose of Lorazepam prescribed was excessive and that the lack of clear rationale for doing so falls below the standard of care.

In balancing this, College counsel asked the Committee to consider two mitigating factors:

- (1) Dr. Gleeson has had no previous discipline findings with this College; and,

(2) his admission of responsibility spared the College and witnesses a lengthy hearing.

Four similar cases were presented by counsel for the College to support the proposed penalty. It was submitted that these cases demonstrated that the proposed penalty was appropriate and in keeping with penalties imposed in like circumstances.

The first case, *CPSO v. Dr. Mayer Hoffer*, was similar to the case at hand in that there was an Agreed Statement of Facts and Joint Submission on Penalty based on a finding of failing to maintain the standard of practice of the profession in keeping adequate medical records and failing to assess one patient while prescribing psychostimulants. In the *Dr. Hoffer* case, the physician admitted that he had failed to maintain the standard of the profession. The following penalty was imposed: a reprimand; completion, at his own expense, of the College's Medical Record-Keeping Course and the Physician's Prescribing Skills Course; maintenance of a detailed prescription log for a six month period; clinical monitoring, at his own expense, for a six month period to include review of the prescription log; review of charts; and, discussion and review of prescribing patterns. The monitor was required to provide reports to the college. In addition, Dr. Hoffer was required to undergo a reassessment of his practice six months after the end of the monitoring period by an Assessor, pay College costs in the amount of \$3,650.00 and the results of the proceeding were to be included on the register. Like Dr. Gleeson, Dr. Hoffer had no prior discipline findings and admitted to the facts thereby avoiding the need for a lengthy hearing.

In the second case presented, *CPSO v. Dr. Alexander Franklin*, the panel found that Dr. Franklin had failed to keep adequate patient records for 28 patients in addition to failing to maintain the standard of the profession in that he failed to conduct appropriate testing on the patients in question and failed to provide appropriate follow-up care. The penalty imposed was a four month suspension of his certificate of registration with two months of the suspension suspended if Dr. Franklin, at his own expense, completed the College's Medical Record-Keeping Course. Dr. Franklin was also required to participate in a preceptorship limited to the standard of care expected of a general practitioner in

performing eye examinations. In addition, Dr. Franklin was required to undergo reinspection of his practice, at his own expense, between three and six months after the end of the preceptorship, attend before the panel for a reprimand and pay costs in the amount of \$21,625.00.

The third case, *CPSO v. Dr. Brian Peoples*, was presented as a similar case of failing to maintain the standard of practice for charting and prescribing medications for patients. Dr. Peoples admitted to the allegations of professional misconduct. The penalty ordered included a recorded reprimand, completion of the College's Record-Keeping Course, completion of the College's Narcotics Prescribing course, provision of the proof to the Registrar of successful completion of these courses within twelve months and submission to inspection, by the College, twelve months after completion of these courses.

The fourth case presented was the *CPSO v. Dr. Ramesh Patel*. In addition to demonstrating deficiencies in clinical care, Dr. Patel failed to keep adequate medical records. The penalty included a reprimand and a suspension of Dr. Patel's certificate of registration for a period of three months. The suspension itself was to be suspended if Dr. Patel, at his own expense, took the College's Record-Keeping for Family Physicians Course, had his office records reassessed by the College, and attended a PREP assessment and completed any remedial work recommended by the PREP Assessor. He was permitted to continue to practice while undergoing this remediation only if he achieved scores level three or better at the PREP assessment.

College counsel submitted that the joint penalty proposed for the case at hand is in line with these similar cases for the following reasons:

- (1) taking the Record-Keeping course and undergoing monitoring addresses the issue of rehabilitation;
- (2) the cost award is for a one-day hearing and indemnifies the College for some of the costs incurred by the College;
- (3) the proposed monitoring and courses to be taken also address the need for general and specific deterrence; and,

- (4) the proposed monitoring serves to protect the public.

College counsel submitted that the letters of support introduced by Dr. Gleeson's counsel should be considered only as indicative of the regard Dr. Gleeson's patients have for him. They do not, however, speak to the issues of his clinical care or record-keeping and this should be taken into account in considering how much weight should be given to them in determining penalty.

Counsel for Dr. Gleeson asked the Committee, in determining penalty, to consider, in addition to the submissions of College Counsel, the following:

- (1) the law requires that the joint submission be accepted unless to do so would be contrary to the public interest or bring the administration of justice into disrepute;
- (2) at the end of the proposed two-year monitoring period, Dr. Gleeson will be over 70 years of age and will fall into the regular practice review power of the College; and,
- (3) the seven letters of support written by patients of Dr. Gleeson do not speak to his clinical practice but do show the respect and high regard his patients have for him and the importance of his practice in the community.

In determining the penalty, the Committee considered the following:

- (1) the penalty was jointly proposed by counsel for the College and counsel for Dr. Gleeson;
- (2) the Committee accepted the submissions made by both counsel and found nothing to suggest that accepting the jointly-proposed penalty would fail to serve the public interest or bring the administration of justice into disrepute;
- (3) the Committee accepted the similar cases as supporting the jointly proposed penalty;

- (4) Dr. Gleeson admitted to the allegations of failing to maintain the standard of the practice and had no prior discipline history; and,
- (5) the Committee accepted the letters of support written by patients of Dr. Gleeson's as indicating their respect and regard for him. The College agreed that they do not address the issue of his clinical care or record-keeping and, therefore, do not have much bearing on the penalty decision.

The Committee wishes to underline the importance of keeping detailed and accurate medical records as a critical part of providing safe and appropriate care to patients. Documentation of medications prescribed, indications for their use, dosages and rationale for dosage changes, side-effects, potential for dependence and abuse, etc. are necessary to ensure adequate monitoring and provide a complete record in the event that care is transferred.

Dr. Gleeson failed to meet the standard of record-keeping and prescribed a medication using an excessive dosage without a clear rationale for doing so and potentially placed the patient in question in harm's way.

The Committee found that the jointly-proposed penalty is appropriate in that it protects the public, upholds the honour of the profession, acts as a deterrent to Dr. Gleeson and other members, and serves to rehabilitate Dr. Gleeson.

ORDER

Therefore, the Committee ordered and directed that:

1. The Registrar impose the following terms, conditions and limitations on Dr. Gleeson's certificate of registration:
 - i. At his own expense, Dr. Gleeson shall undergo the Physician Review and Enhancement Program ("PREP") and shall abide by any and all reasonable

recommendations made as a result of PREP. Dr. Gleeson shall enrol in the PREP course within five (5) weeks of the date of this Order;

- ii. At his own expense, Dr. Gleeson shall successfully complete the College's Medical Record-Keeping for Physicians course and follow-up component by July 1, 2009 and shall provide proof of same to the College upon completion; and
 - iii. At his own expense, Dr. Gleeson shall undergo a monthly clinical monitoring of a minimum of ten (10) charts per month for a period of two (2) years by a monitor who is a member of the College of Physicians and Surgeons of Ontario and who is approved by the College (the "Monitor"). The charts will be selected at the discretion of the Monitor. The Monitor shall report to the College quarterly. If the Monitor is concerned that Dr. Gleeson's practice falls below the standard of practice of the profession and/or that Dr. Gleeson's patients may be exposed to risk of harm or injury, the Monitor shall immediately inform the College. The monitoring period shall commence no later than 45 days from the date of this Order.
2. Dr. Gleeson pay costs to the College in the amount of \$5,000.00 within 180 days of the date of this Order.
 3. The results of this proceeding to be included on the register.