

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Charles Larry Leatherdale this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of the complainants or any information that could disclose the identity of the complainants under subsection 47(1) 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: Leatherdale (Re)

**THE DISCIPLINE COMMITTEE OF THE COLLEGE
OF PHYSICIANS AND SURGEONS OF ONTARIO**

IN THE MATTER OF a Hearing directed
by the Complaints Committee of
the College of Physicians and Surgeons of Ontario
pursuant to Section 26(2) of the Health Professional 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. CHARLES LARRY LEATHERDALE

PANEL MEMBERS:

DR. R. GUSCOTT (CHAIR)
DR. J. DOHERTY
H. WALKER
DR. P. CHART
J. ASHMAN

PUBLICATION BAN

Hearing Date(s) December 10, 2003
January 19, 2004

Decision Release Date: January 19, 2004

DECISION AND REASONS FOR DECISION

The Discipline Committee of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on December 10, 2003 and January 19, 2004. At the conclusion of the hearing, the Committee pronounced its finding that the member committed professional misconduct, and delivered its penalty order, with written reasons to follow.

NON-PUBLICATION ORDER

The Committee made an order pursuant to section 47 of the *Health Professions Procedural Code* (the “Code”), being Schedule 2 to the *Regulated Health Professions Act*, S.O. 1991, c. 18, prohibiting the publication or broadcast of the names of the complainants, or any information that could identify them.

ALLEGATIONS

The Notice of Hearing alleged that Dr. Leatherdale committed acts of professional misconduct:

1. under clause 51(1)(b.1) of the Code in that he engaged in sexual abuse of a patient;
2. under paragraph 26.28 of Ontario Regulation 577/75 as amended, paragraph 27.29 of Ontario Regulation 448/80 as amended, and paragraph 29.30 of Ontario Regulation 548/90 as amended, in that he engaged in sexual impropriety with a patient; and
3. under paragraphs 26.31 of O. Reg. 577/75, paragraph 27.32 of O. Reg. 448/80, paragraph 29.33 of O. Reg. 548/90, and paragraph 1(1)33 of O. Reg. 856/93, in that he engaged in conduct or an act 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 ALLEGATIONS

At the outset of the hearing, the College withdrew allegations 1 and 2 in the Notice of Hearing. Dr. Leatherdale admitted to allegation 3.

EVIDENCE

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

1. Dr. Charles Larry Leatherdale (“Dr. Leatherdale”) was born February 24th, 1935.
2. Dr. Leatherdale is a physician licensed to practice medicine in the Province of Ontario. Dr. Leatherdale received his certificate of registration from the College on June 30th, 1961.
3. Dr. Leatherdale commenced practising in Port Burwell, Ontario in October of 1962 and continues to carry on a general family practice there, including obstetrics and gynaecology. The surrounding geographical area is under-served. There is no other physician in Port Burwell and there is no physician for approximately 20 miles in any direction. Dr. Leatherdale carries a patient load of approximately 4,500 to 5,000 regular patients with approximately 15,000 to 20,000 office visits each year.
4. Approximately fifty percent of Dr. Leatherdale’s practice is comprised of German-speaking Mexican Mennonites.
5. In order to better service the area, Dr. Leatherdale has obtained a special license to dispense pharmaceuticals out of his office. There is no pharmacy in Port Burwell.
6. Dr. Leatherdale also has a nurse practitioner and takes on nurse practitioner students. Dr. Leatherdale also has three employees at his office.
7. Patient A was a patient of Dr. Leatherdale’s from approximately 1972 until March of 1993. Commencing in or around 1975, Dr. Leatherdale began to provide regular counselling to Patient A. During the course of counselling sessions in or around 1978 to 1980, Dr. Leatherdale made inappropriate comments to Patient A about the sexual difficulties that she was having with her husband and sexual abuse that Patient A alleged had been committed upon her by her father. Dr. Leatherdale told Patient A that the sexual abuse by her father may have taken place because he was not having sexual intercourse with her mother or he was a dirty old man. Patient A perceived that Dr. Leatherdale treated her in a manner that extended well beyond the boundaries of any normal doctor-patient relationship. In March of 1993, Dr. Leatherdale treated Patient A in an unprofessional manner causing Patient A to terminate her doctor-patient relationship with Dr. Leatherdale.
8. Patient B saw Dr. Leatherdale as her family physician as a child. As of 1997, Patient B had been a patient of Dr. Leatherdale’s practice for approximately five to seven years. Patient B terminated her doctor-patient relationship with Dr. Leatherdale in May of 1997. On May 21st, 1997, Dr. Leatherdale had been required

to attend on a Coroner's call. Efforts had been made by the staff at Dr. Leatherdale's office to re-schedule various appointments for that day. Notwithstanding being contacted by Dr. Leatherdale's office staff to re-schedule her appointment, Patient B attended for her appointment with Dr. Leatherdale on that date. Patient B presented with a complaint of a sore back and wanted Dr. Leatherdale to write a report to provide to her insurance company stating that she could no longer attend school due to her sore back. Patient B became upset during the medical appointment. Patient B smelled alcohol on his breath. Dr. Leatherdale used improper language in her presence and made inappropriate comments to Patient B during the course of that medical appointment.

9. Dr. Leatherdale's office was destroyed by fire in March of 1993. All of the medical records that Dr. Leatherdale has for Patient A and Patient B are attached as Schedules "A" and "B".

FINDINGS

The Committee accepted as true all of the facts as set out in the Agreed Statement of Facts. The Committee found that allegation 3 was established based in particular upon the following:

- (i) Dr. Leatherdale made inappropriate comments to Patient A about the sexual difficulties that she was having with her husband and sexual abuse that Patient A alleged had been committed upon her by her father. Dr. Leatherdale told Patient A that the sexual abuse by her father may have taken place because he was not having sexual intercourse with her mother or he was a dirty old man;
- (ii) In March of 1993, Dr. Leatherdale treated Patient A in an unprofessional manner causing Patient A to terminate her doctor-patient relationship with Dr. Leatherdale; and
- (iii) On May 21, 1997, Dr. Leatherdale used improper language in Patient A's presence and made inappropriate comments to Patient B during the course of that medical appointment.

The Committee therefore found that Dr. Leatherdale committed professional misconduct 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.

PENALTY DECISION AND REASONS

The parties made a joint submission pursuant to which the proposed penalty would consist of:

- (a) A three-month suspension of Dr. Leatherdale's certificate of registration, one month of which would be suspended if Dr. Leatherdale provides evidence to the College of his successful completion of the College boundaries course;
- (b) A reprimand;
- (c) Costs to the College in the amount of \$2500.00; and
- (d) The results of this proceeding will be included in the register.

Counsel for Dr. Leatherdale requested that the period of suspension be split to better meet the needs of the community and submitted a letter describing the unique nature of Dr. Leatherdale's practice (Exhibit 3).

Counsel for the College submitted that the suspension be served in consecutive months and not altered on the basis of inconvenience.

The Committee considered the submission as to penalty and concluded that the penalty proposed by way of joint submission was appropriate and addressed the principles of denunciation of the behavior, protection of the public, preservation of the integrity of the profession and rehabilitation of the member. The Committee concluded that the community served by Dr. Leatherdale will suffer whether the suspension is served in consecutive months or split, and that the former better reflects the nature of the penalty. The Committee also concluded that the suspension should commence on the earliest practicable date.

ORDER

Therefore, the Discipline Committee ordered and directed that:

1. The Registrar suspend Dr. Leatherdale's certificate of registration for a period of three consecutive months commencing on March 1, 2004 at 12:01 am, one month of which will be

suspended if Dr. Leatherdale provides evidence to the College of his successful completion of the College boundaries course;

2. Dr. Leatherdale attend before the Committee to be reprimanded;
3. Dr. Leatherdale to pay costs to the College in the amount of \$2,500.00; and
4. The results of this proceeding to be included in the Register.

Following the hearing, the Committee administered the reprimand.