

## NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. William George Weaver, this is notice that the Discipline Committee ordered that no person publish or broadcast the identity of the witness or any information that could disclose the identity of the witness 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(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,

(a) 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; or

(b) 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: Weaver, W.G. (Re)**

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

**IN THE MATTER OF** a Hearing directed  
by the Inquiries, Complaints and Reports Committee of  
the College of Physicians and Surgeons of Ontario  
Section 26(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. WILLIAM GEORGE WEAVER**

**PANEL MEMBERS:**

**DR. E. STANTON  
D. DOHERTY  
DR. A. SHARMA  
DR. E. ATTIA (PhD)  
DR. C. CLAPPERTON**

<b>Hearing Date:</b>	<b>July 12, 2011</b>
<b>Decision Date:</b>	<b>September 22, 2011</b>
<b>Release of Written Reasons:</b>	<b>September 22, 2011</b>

**PUBLICATION BAN**

## **DECISION AND REASONS FOR DECISION**

The Discipline Committee (the “Committee”) of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on July 12, 2011. At the conclusion of the hearing, the Committee reserved its decision on finding.

### **ALLEGATIONS**

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

1. 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; and
2. under clause 51(1)(b.1) of the Health Professions Procedural Code which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18 (the “Code”), in that he engaged in the sexual abuse of a patient.

### **RESPONSE TO ALLEGATIONS**

Dr. Weaver did not attend the hearing or send counsel on his behalf. The Committee proceeded on the basis that Dr. Weaver denied the first allegation as set out in the Notice of Hearing. The College withdrew the second allegation of sexual abuse.

### **PRELIMINARY MATTERS**

As a preliminary matter, the Committee considered first the issue of Dr. Weaver’s non-attendance at the hearing.

#### ***Proceeding In Absentia***

Prior to the commencement of the hearing, the Committee heard evidence in order to decide whether to proceed with the hearing *in absentia*.

Section 39(1) of the *Regulated Health Professions Act*, 1991, S.O. 1991, c. 18 (the “Act”) provides that “[a] notice or decision to be given to a person under this Act ... may be given by mail or fax.” Section 39(2) provides that “[i]f a notice or decision is sent by mail addressed to a person’s last known address, there is a rebuttable presumption that it was received by the person on the fifth day after mailing.”

The *Statutory Powers Procedures Act*, R.S.O. 1990, c. S.22 requires that the parties to a proceeding shall be given reasonable notice of the hearing by the Tribunal (Section 6(1)). Notice of an oral hearing shall include a notice of the time, place and purpose of the hearing and a statement that if the party notified does not attend at the hearing, the Tribunal may proceed in the party’s absence and the party will not be entitled to any further notice in the proceeding (Section 6(3)). Where a party to a proceeding does not attend at the hearing where notice of the oral hearing has been properly given, the Tribunal may proceed in the absence of the party (Section 7(1)).

Further to the question of whether or not Dr. Weaver received the Notice of Hearing, the Committee heard from Ms X, senior legal assistant with the College of Physicians and Surgeons of Ontario (“the College”). She testified and gave documentary evidence that Ms Y was, at one point, counsel for Dr. Weaver and Ms X presented a letter signed by Ms Y of Confirmation of Authority to Accept Service dated October 23, 2008. A subsequent letter dated June 10, 2009, from Ms Y acknowledges the service of the Notice of Hearing. Another letter from the same counsel dated February 11, 2010, states that she is no longer representing Dr. Weaver.

In considering whether Dr. Weaver had been given reasonable notice of the hearing, the Committee heard evidence from Ms Z, Hearings Coordinator at the College. She outlined the various items and correspondence between the College and Dr. Weaver between December 1, 2010, and July 5, 2011, which were included in a book of documents that was placed in evidence. Earlier letters sent to Dr. Weaver’s last known address were returned. An envelope with a new letter dated July 5, 2011, containing enclosures and all the previous letters, including a letter dated June 13, 2011, was sent by

first class prepaid regular mail and by Federal Express Courier to a new address for the doctor. This correspondence was not returned, nor did the College hear from Dr. Weaver.

The Committee accepted the evidence of Ms Z and her confirmation of the authenticity of the book of documents pertaining to various items of correspondence between the College and Dr. Weaver.

The fact that Dr. Weaver did not renew his certificate of registration and that he failed to notify the College of his updated address does not mean that he can escape the jurisdiction of his governing body. He was a member of the College at the time of the allegations against him, and the College has continuing jurisdiction over him referable to such time that he was a member (Section 14 of the Code). The Committee concluded that Dr. Weaver received the Notice of Hearing, that attempts had been made to contact Dr. Weaver in a reasonable and proper fashion, and that although he did not respond or specifically advise that he would not be attending, he was given proper notice of the hearing and it was in the public interest to proceed with the hearing.

## **FACTS AND EVIDENCE**

### **(a) Overview of the Issues**

Dr. Weaver is a 58 year old general practitioner who worked out of a health clinic. He did not renew his certificate of registration in 2010.

The issues in this case are:

- i) Did Dr. Weaver engage in sexual conduct with the complainant at a time when she was his patient?
- ii) Did Dr. Weaver engage in sexual conduct with the complainant after termination of the professional relationship in circumstances that would reasonably be regarded by members as disgraceful, dishonourable or unprofessional?

The Committee heard from Ms A, the complainant, who was having difficulty coping with circumstances in her life at the time Dr. Weaver told her of his attraction to her and advised her that she needed to find another doctor. They began a sexual relationship the day after he told her of his attraction.

Also submitted into evidence were the medical records of Ms A from the health clinic, including visits with Dr. Weaver. OHIP billings were presented, as were College policies on Physician-Patient Dating and Maintaining Appropriate Boundaries and Sexual Abuse.

**(b) Summary of the Evidence**

*Ms A*

The first witness was Ms A, the complainant. Ms A first met Dr. Weaver in October 2007 during an office visit. When she first saw Dr. Weaver, she discussed marital problems and concerns about her mother. She saw him for several visits between October 2007 and February 2008. On February 21, 2008, she went to see Dr. Weaver because she had been upset by a family incident and wanted to talk to someone. She received counseling on that visit. Dr. Weaver told her he would like to discuss the issues with her some more and asked her to return later that day with coffee for both of them. When she returned, he told her that there were no examining rooms available at the clinic so they went to a Tim Horton's. While there, he told her that he was attracted to her and that this was a conflict of interest for him, and he advised her to find another doctor. Dr. Weaver gave Ms A his address and a map to his house and asked her to drop by his place. Prior to this incident, she thought nothing flirtatious had gone on between them.

The following evening, Ms A went to Dr. Weaver's home and they began a sexual relationship that continued over the ensuing weeks. In May of that year, Ms A testified that she moved out of her home, found an apartment and moved into it with Dr. Weaver. At that time, she was on short-term disability for depression and stress.

She lived with Dr. Weaver for about three months. In the beginning, she testified that she trusted him, but later she became suspicious of his behaviour. She found a book he kept of his past relationships, which he subsequently denied and told her she imagined seeing it. He left her letters and instructions on a daily basis that she found overwhelming. Her daughter didn't like Dr. Weaver and didn't want to be with him. Ms A shared joint custody of her children with her husband.

Ms A testified that she moved out of the apartment and returned to her home with her husband and children sometime in July of 2008, although she was not certain of the exact date. There was no further physical intimacy after that. The Committee heard evidence regarding when Ms A moved out of the apartment she shared with Dr. Weaver in July of 2008, but the evidence will not be summarized here as it was not central to the issues at hand.

In addition to her testimony, Ms A was taken through a book of letters, cards and notes that Dr. Weaver wrote to her. They spanned the period from April 2008 to May 2009. Two of the letters were from the physician to her daughter. In November 2008, he wrote to Ms A in a romantic way at a time when they were no longer seeing each other and Ms A had returned to her husband and family. In February 2009, he sent her an anniversary card. He continued to send her letters and e-mails and continued to stop by her office regularly after they broke off their relationship.

Ms A tearfully testified that, in looking back, she realized that Dr. Weaver's behaviour was inappropriate, as she was in no state of mind to be in a relationship and to be bombarded with notes and letters daily. Dr. Weaver should have helped her as a doctor, not encouraged her to be in a relationship, she said.

*Mr. V*

Mr. V has been an investigator with the College for 11 years. He testified that, following receipt of a consent form signed by Ms A allowing him to obtain her medical record from the health clinic, he visited the clinic. While there, he spoke with the Office Manager who reviewed the medical records with him and informed him of the identity of the writers in

Ms A's medical chart. Mr. V confirmed that his investigative note dated October 22, 2008, outlined the visits of Ms A to Dr. Weaver according to the medical record he reviewed with the clinic Office Manager.

### *Medical Records*

The Committee also reviewed the chart of Ms A which outlined her care at the health clinic from 1991 to August 2008. Medical notes from Dr. Weaver were included for several visits from October 2007 to February 21, 2008. A note signed by Dr. Weaver dated February 22, 2008, indicates that he spoke to the patient in detail about a possible conflict of interest and that she would return to a former doctor of hers at the clinic. Ms A's testimony varied with the doctor's note on this date as she said that this conversation took place the day before at Tim Horton's. Nonetheless, these notes confirm the version of Ms A's testimony related to the doctor telling her about a conflict of interest and the need for her to see another doctor. OHIP billings for Dr. Weaver indicate that he billed for counseling for Ms A for marital difficulties on February 21, 2008.

## **FINDINGS**

The Committee understands that the allegations must be proved on a balance of probabilities with evidence that is clear, cogent and convincing. The fact that Dr. Weaver is not represented does not alter the burden of proof.

The Committee determined that Dr. Weaver engaged in a sexual relationship with Ms A within one day of the termination of the doctor-patient relationship. Accordingly, his actions led the Committee to find that his behaviour would be regarded by members as disgraceful, dishonourable or unprofessional and constitutes professional misconduct. The reasons for our decision follow.

Ms A was a credible witness. She was straightforward, clear and told her version of events without any evident rancour.



Ms A's testimony that the relationship began on February 22, 2008, is supported by the notes in her medical chart referring to, among other things, a "conflict of interest" having been discussed with the patient. The relationship is also substantiated by the voluminous personal notes marked as an exhibit at the hearing that Ms A confirmed Dr. Weaver wrote to her.

Medical records also confirm that Ms A's last appointment with Dr. Weaver took place the day before she testified their relationship began, on February 21, 2008, when she had attended at his office for counseling. Dr. Weaver must have known that she was vulnerable at the time due to the events in her life, which were recorded in the note he wrote at the time.

The Committee is persuaded by the above clear, cogent and convincing evidence that there was a sexual relationship between Dr. Weaver and Ms A that began a day after the doctor-patient relationship was terminated.

At the time of the relationship, the College had a policy in effect which stated that sexual relationships between doctors and patients during treatment are prohibited. When the clinical relationship involves psychotherapy or psychoanalysis, engaging in sexual relations with the patient is prohibited at any time after termination of the treatment. If psychotherapy has been a "significant component" of treatment, sexual contact is prohibited at any time after termination of treatment. The policy states that, as a general rule, physicians should not have sexual contact with a former patient for a period of one year following the date of the last professional contact with the patient, even if the physician has formally terminated the professional relationship. The policy states that it may be unnecessary to wait a year following termination of a relationship if the doctor saw the patient only once, for example. Sometimes, it may never be appropriate for the post-termination sexual relationship to develop.

In this case, Dr. Weaver did not wait a year before commencing a sexual relationship. He also preyed upon the vulnerabilities of Ms A, who was under considerable personal stress due to marital and other family difficulties. A College-issued policy update published in December of 2008 highlights the purpose of the sanctions for physician-patient sexual relationships: “at all times, a physician has an ethical obligation not to exploit the trust, knowledge and dependence that develops during the physician-patient relationship for the physician’s personal advantage.” In this case, the Committee finds that Dr. Weaver did exploit Ms A’s vulnerabilities and, thus, is found to have committed professional misconduct, 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.

The Committee requests that the Hearings Office schedule a penalty hearing pertaining to the findings made at the earliest opportunity.

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**Indexed as: Weaver, W.G. (Re)**

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

**IN THE MATTER OF** a Hearing directed  
by the Inquiries, Complaints and Reports Committee of  
the College of Physicians and Surgeons of Ontario  
pursuant to Section 26(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. WILLIAM GEORGE WEAVER**

**PANEL MEMBERS:**

**DR. E. STANTON  
D. DOHERTY  
DR. A. SHARMA  
DR. E. ATTIA (Ph.D.)  
DR. C. CLAPPERTON**

<b>Penalty Hearing Date:</b>	January 9, 2012
<b>Penalty Decision Date:</b>	February 8, 2012
<b>Release of Written Reasons:</b>	February 8, 2012

**PUBLICATION BAN**

## **PENALTY AND REASONS FOR PENALTY**

The Discipline Committee (the “Committee”) of the College of Physicians and Surgeons of Ontario delivered its written decision and reasons on finding in this matter on September 22, 2011, and found that Dr. William George Weaver has committed an act of professional misconduct, 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.

The Committee heard evidence and submissions on penalty and costs on January 9, 2012, and reserved its decision.

## **PRELIMINARY MATTERS**

As was the case with the findings part of this hearing, Dr. Weaver did not attend or participate in the penalty hearing.

The Committee heard evidence from Ms X, Manager of the Hearings Office at the College. She testified that Dr. Weaver had been mailed a copy of the Decision and Reasons for Decision on Finding, as noted in a sworn affidavit by one of her staff. Dr. Weaver was served with notice of the scheduled date of the penalty hearing both by mail and by courier according to another sworn affidavit. Both letters were sent to his last known address and were not returned.

As noted in the findings portion of the hearing, the *Statutory Powers and Procedures Act*, R.S.O. 1990, c.S.6(3) allows for the tribunal to proceed in the party’s absence once they have been given notice of the proceeding, and further notice in the proceeding is not required. Accordingly, with Dr. Weaver having been properly served with the notice of the hearing into the original allegations in this matter and further served with notice of the penalty phase, the Committee proceeded to hear the penalty phase in his absence.

## **SUBMISSIONS ON PENALTY AND COSTS**

The College presented their submissions on penalty for Dr. Weaver, which included: a six month suspension; terms, conditions and limitations on his certificate of registration involving the use of a monitor when seeing female patients and other related requirements regarding the monitor, as well as requiring that Dr. Weaver undertake certain appropriate courses; and a public reprimand. Since Dr. Weaver's certificate of registration expired in 2010, the suspension would take effect on the day his certificate is reinstated. Costs of the hearing were also sought by the College.

## **DECISION AND REASONS**

In looking at the aggravating factors in the case, the Committee notes that Dr. Weaver engaged in a sexual liaison with a former patient within one day after severing the doctor-patient relationship with her. This was very serious professional misconduct. Dr. Weaver should not have engaged in a relationship with a former patient. This misconduct was exacerbated by the fact that Dr. Weaver knew that the patient was having marital and family problems. Dr. Weaver exploited her vulnerabilities, which is inexcusable. Rather than helping her, he thought of his own interests ahead of hers, and his actions in pursuing a sexual relationship with her brought her harm.

The only mitigating factor in this case is that Dr. Weaver has no prior history before the Discipline Committee of the College.

The Committee considered other precedents with respect to an appropriate penalty, presented by the College. Although the suspensions in those cases involved a range, the Committee has concluded that a six month suspension is the appropriate penalty in this case. Dr. Weaver's sexual relationship with the former patient began very shortly after the doctor patient relationship ended, and the relationship was with a patient who was especially vulnerable at the time.

A six month suspension will serve to protect the public and maintain the public's confidence in the integrity of the profession. It will provide a specific deterrent to Dr. Weaver if he chooses to practise again. It will also act as a general deterrent to the membership who will learn of Dr. Weaver's disgraceful conduct and the consequences for it.

Appropriate courses in dealing with ethics, boundary issues with patients and the risks inherent in doctor-patient relationships will help to rehabilitate Dr. Weaver should he choose to return to practice.

Payment of costs should not be borne by the general membership when the doctor's misconduct has led to the proceedings. Thus, an award of costs payable to the College is appropriate.

For the above reasons, the Committee views the penalty of a six month suspension, terms, conditions and limitations, a reprimand and costs as the appropriate penalty in this case.

## **ORDER**

The Discipline Committee, therefore, ordered and directed that:

1. the Registrar suspend Dr. Weaver's certificate of registration for six (6) months.  
This suspension is to take effect if and when Dr. Weaver's certificate of registration is reinstated, commencing on the day the certificate is reinstated.
2. the Registrar impose the following terms, conditions and limitations on Dr. Weaver's certificate of registration if and when it is reinstated:
  - a. Dr. Weaver shall not engage in any professional encounter or interaction with any female person except in the presence of a monitor. Dr. Weaver will be responsible for the associated costs of the monitor;

- b. that Monitor shall be a member of a health profession pursuant to the terms of the Regulated Health Professions Act, 1991, S.O. 1991, c. 18 as amended, who is acceptable to the College of Physicians and Surgeons (the “College”);
  - c. the Monitor must remain in the examination or consulting room at all times during all professional encounters with all female patients;
  - d. the Monitor is required to carefully observe all physical examinations of all female patients, including but not limited to internal examinations of female patients;
  - e. the Monitor is required to maintain a log of all female patient encounters and that the log shall provide the name of the female patient, and the purpose and date of the appointment. The Monitor will sign and date the corresponding entry on the female patient’s medical record;
  - f. Dr. Weaver shall post a sign in his office and consulting rooms notifying patients of subparagraphs (i) and (ii) above in English;
  - g. Dr. Weaver shall cooperate with unannounced inspections of his practice and such other steps as the College may take for the purpose of monitoring and enforcing his compliance with the terms of this Order; and
  - h. Dr. Weaver shall successfully complete, at his own expense, the College’s Understanding Boundary Issues and Managing the Risks Inherent in the Doctor-Patient Relationship and an educational program in ethics approved by the College.
3. Dr. Weaver appear before the panel to be reprimanded if and when he is reinstated.
4. Dr. Weaver pay costs to the College in the amount of \$7,300.