

Indexed as: Saunders (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. DARREN DEAN SAUNDERS

PANEL MEMBERS:

DR. P. CHART (CHAIR)
S. DAVIS
DR. R. EDNEY
B. TAA (Ph.D.)
DR. M. DAVIE

Hearing Date: May 12, 2008
Decision/Release Date: May 12, 2008
Release of Written Reasons Date: August 27, 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 May 12, 2008. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct, and it delivered its penalty order in writing, with written reasons to follow.

THE ALLEGATIONS

The Notice of Hearing alleged that Dr. Saunders 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 committed 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 paragraph 1(1)34 of O. Reg. 856/93 in that he engaged in conduct unbecoming a physician.

RESPONSE TO THE ALLEGATIONS

Dr. Saunders admitted to the first allegation in the Notice of Hearing, 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. Counsel for the College withdrew the second allegation in the Notice of Hearing.

FACTS AND EVIDENCE

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

FACTS

1. Dr. Darren Saunders is a member of the College of Physicians and Surgeons of Ontario (the “College”), practicing at an Ontario hospital (the “Hospital”). He is a certified specialist in Nephrology and Internal Medicine.
2. In or about early September, 2006, at the Renal Unit of the Hospital, Dr. Saunders approached a Registered Nurse, Ms. A, from behind and grabbed her around the waist when she was standing at the refrigerator.
3. Dr. Saunders’ conduct startled Ms. A, caused her significant pain, caused her to have the wind knocked out of her and resulted in bruising to her thorax. The bruising was documented in photographs taken by a nurse at the Hospital.
4. When Ms. A told Dr. Saunders that he was hurting her, he responded by saying that she had “had love bites before”.
5. This incident was witnessed by patients waiting in the Renal Unit as well as other Hospital staff.
6. Dr. Saunders attended the College’s Boundary Issues Workshop on April 18-19, 2008 and the College has received confirmation of his successful completion of the course.

ADMISSION

7. Dr. Saunders admits that the conduct set out above constitutes professional misconduct under paragraph 1(1)33 of Ontario regulation 856/93 of the *Medicine Act, 1991* (“O. Reg. 856/93”) in that he has committed an act relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members of the College as disgraceful, dishonourable or unprofessional.

FINDING

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts. Having regard to these facts, the Committee accepted Dr. Saunders' admission and found that he has committed an act of professional misconduct in that he has committed an act relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members of the College as disgraceful, dishonourable or unprofessional under paragraph 1(1)33 of O. Reg. 856/93.

PENALTY AND REASONS FOR PENALTY

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

In its decision to accept the joint submission of the parties, the Committee took the following factors into consideration. The facts clearly established that Dr. Saunders behaved unprofessionally and inappropriately in a public setting in full view of patients and staff at the Renal Unit at the hospital. The degree of injury to Ms. A was substantial, and Dr. Saunders' conduct was inexcusable.

The following mitigating factors were taken into consideration. Dr. Saunders admitted to his behaviour. He has no prior disciplinary history. He took the College's Boundary Issues workshop and has been seeing a psychiatrist for treatment. By admitting that his conduct constituted professional misconduct, Dr. Saunders saved the complainant from having to testify and saved the College the cost of a longer hearing.

The protection of the public, which includes co-workers and colleagues, is paramount when the Committee makes an order. In this case, the Committee felt that the penalty as set out by the parties serves this essential purpose of preservation of public safety. It does so by requiring Dr. Saunders to continue treatment with his psychiatrist until the psychiatrist recommends to the College that treatment is no longer necessary. It also does so by requiring Dr. Saunders to have a practice monitor for thirty months, who will provide reports to the College about Dr. Saunders' conduct and behaviour, and who will undertake to immediately notify the College if he or she develops concerns regarding Dr.

Saunders' conduct or behaviour. The Committee felt that the proposed penalty would also uphold the integrity of the profession while satisfying the principles of specific and general deterrence of this type of behaviour.

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

ORDER

The Committee ordered and directed that:

1. Dr. Saunders appear before the panel to be reprimanded and the fact of the reprimand be recorded on the register.
2. The Registrar impose the following terms, conditions and limitations on Dr. Saunders' certificate of registration:
 - a) that Dr. Saunders continue treatment by his psychiatrist, Dr. X, who will provide quarterly reports to the College until Dr. X recommends that treatment is no longer necessary. If for any reason there is an inability for Dr. X to continue treating Dr. Saunders, then another psychiatrist, acceptable to the College, may be substituted; and
 - b) that Dr. Saunders identify a physician in the hospital in which Dr. Saunders practices who will agree to monitor his behaviour for a period of thirty (30) months, report to the College every three months and execute an undertaking acceptable to the College, a copy of which was attached as Appendix "A" to the Committee's Order .
3. The results of this proceeding be included on the register.

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