

Indexed as: Lazare (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 38 to 56
of the Health Professions Procedural Code
of the Regulated Health Professions Act 1991,
S.O.1991, c. 18 as amended.**

BETWEEN:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. SAMUEL JULIAN LAZARE

PANEL MEMBERS: DR. A. KENSHOLE (CHAIR)
DR. B. ADAMS
DR. O. KOFMAN
H. MAEOTS

HEARING DATE: February 15, 1999

DECISION/RELEASED: February 15, 1999

DECISION AND REASONS FOR DECISIONS

The matter was heard by the Discipline Committee of the College of Physicians and Surgeons of Ontario at Toronto on February 15, 1999.

In the Notice of Hearing, Dr. Lazare was charged with professional misconduct as defined in paragraph 27.32 of Ontario regulation of 448 R.R.O. 1980, as amended under the *Health Disciplines Act*, 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 considered by members as disgraceful, dishonourable or unprofessional. A similar charge was laid under paragraph 29.33 of Ontario regulation 548, R.R.O., 1990. Dr. Lazare entered a plea of no contest. A statement of uncontested evidence was filed with the Committee, and established the following:

Dr. Lazare is a family physician. The complainant became his patient in early 1985 and remained so until early 1987 when she was advised by Dr. Lazare that she should find another family physician. The physician/patient relationship terminated completely on June 29, 1987.

A sexual relationship between the patient and Dr. Lazare commenced in January 1987, while she was still Dr. Lazare's patient. This relationship continued through 1991 and thereafter on and off approximately until the end of 1993.

Following the death of the complainant's father in 1986, she saw Dr. Lazare on a number of occasions for physical complaints and counselling relating to, among other issues, the death of her father. On one such appointment the complainant walked over and kissed Dr. Lazare without warning. The sexual relationship began later after a lunch date which took place at the complainant's request and at a time when she was still his patient. Dr. Lazare provided the patient with the name of another family physician whom she did see in April of 1987. The complainant saw Dr. Lazare on two further occasions, in April and June, 1987 at which time the physician/patient relationship terminated.

The complainant stated that she subsequently had a breakdown after discussing her relationship with Dr. Lazare with a psychiatrist in 1994. She then informed Dr. Lazare of her intention to report their relationship to the College of Physicians and Surgeons.

Dr. Lazare does not deny that these events took place as described and recognizes that he should have not become emotionally and sexually involved with the complainant.

Certain personal circumstances of Dr. Lazare were in evidence. At that time Dr. Lazare was in an unhappy marriage which ultimately resulted in separation and divorce. As a result of this he was in an emotionally vulnerable state and it is Dr. Lazare's evidence that the complainant was aggressive in pursuing him and that she had initiated the initial sexual contact. Dr. Lazare continued to feel very uncomfortable about the relationship and made several efforts to end it, particularly in the summer of 1991. He stated that the complainant was adept at manipulating him at these times, and throughout the relationship in general. Nevertheless, Dr. Lazare felt that he and the complainant were in love with each other and believed that this feeling was mutual.

Following the events that gave rise to this complaint, Dr. Lazare sought psychological counselling which he continues to undergo and intends to continue. He is endeavouring to understand the events that gave rise to his sexual relationship with the complainant as well as his life circumstances in general.

Dr. Lazare has undergone psychological assessment by two practitioners, Dr. A., PhD C. Psych, in October 1997 and by Dr. S. in January 1998. Dr. A.'s conclusion was that there was no evidence of psychopathology or personality disturbance and Dr. Lazare's cognitive functioning was fully intact upon cross examination. He responded to test items in an open and honest fashion, producing a valid and interpretable profile of scores. In essence, no evidence of major mental illness or personality disorder was found.

Similarly, Dr. S.'s assessment confirmed that there was no evidence of sexual impulse control disorder, neurosis, psychosis or personality disorder. He concluded that it was his belief, to a reasonable degree of psychological certainty, that Dr. Lazare does not have any emotional or psychiatric disorder which would make him a risk to patients. He recommended that Dr. Lazare continue his personal psychotherapy with his current therapist, as has occurred.

Dr. Lazare has a B.Sc in psychology but no formal training in psychotherapy. He would infrequently see patients for hour-long psychology or counselling sessions. In Dr. S.'s opinion, intensive

supportive counselling performed by physicians without formal training in psychotherapy can generate more emotional intensity than the average medical visit and can bring about dynamics of transference and counter transference that the physician is ill-equipped to deal with. Dr. Lazare subsequently came to realize that he was less well prepared to provide supportive counselling than he had thought. Hour long supportive counselling was never a major part of Dr. Lazare's practice and he has now ceased to provide this form of counselling.

Dr. S. emphasized that he was not concerned about Dr. Lazare's ability to continue to provide the brief, typically twenty minute supportive sessions that are part of a family physician's role.

With respect to Dr. Lazare, no information was presented to suggest that the facts described in this case represent anything more than a single isolated situation.

Dr. S.'s expertise in such matters is accepted by the Committee.

DECISION

Having heard the evidence the Committee found Dr. Lazare guilty of professional misconduct as outlined under paragraph 27.32 of Ontario Regulation 448 and paragraph 29.33 of Ontario regulation 548.

PENALTY

The Committee heard a joint submission as to penalty. The Committee was mindful of the College's mandate to protect the public and guide the profession, and considered that it should apply the principles of specific and general deterrence by sending a powerful reminder from the governing body to the profession that professional misconduct of this nature cannot be tolerated. This is necessary if the Committee is to maintain integrity of the profession and its ability to govern itself in the eyes of the public.

In determining an appropriate penalty, the Committee reviewed the circumstances and penalties imposed in two other cases of a similar nature that were brought before the Discipline Committee within the past three years. The first case reviewed concerned Dr. I, a family doctor who was found guilty of a sexual relationship with a patient over a period of six weeks. Both the patient and the doctor viewed their sexual activity as consensual. The episode described was an isolated incident.

Dr. I was found guilty of professional misconduct. He was reprimanded and his certificate of registration was suspended for six months, five months of that time to be suspended providing that he continue in a therapeutic relationship with his treating psychiatrist with a subsequent report by that psychiatrist to the Registrar within a stated time period.

The second case reviewed by the Committee in determining an appropriate penalty with respect to Dr. Lazare involved Dr. Y-S. Dr. Y-S was reprimanded and his certificate of registration was suspended for a period of twelve months, six months of which would be suspended provided that Dr. Y-S met certain conditions including continuing therapy with his psychiatrist with confirmation by that psychiatrist to the Registrar that the terms and conditions that were specified had been met. In determining the appropriate penalty it was noted by the Committee that Dr. Y-S had previously plead guilty to a similar charge.

In determining the penalty in Dr. Lazare's case the Committee noted the following:

- C there is no history of any prior disciplinary proceeding against Dr. Lazare;
- C Dr. Lazare took steps to end the sexual relationship shortly after it had commenced though he must have been aware that such a relationship was improper from the outset and did not take steps to avoid it;
- C there is no evidence of sexual predation nor of underlying psychopathology;
- C by engaging in some psychological counselling Dr. Lazare has taken steps to deal with the issues surrounding this case;
- C the Committee noted that Dr. Lazare expressed remorse and acceptance of full responsibility for his behaviour;
- C by his plea Dr. Lazare avoided the need for the complainant to testify and for witnesses to be called.

The Committee considered that the appropriate principles were satisfied by the order proposed in the joint submission, and made the following order as to penalty:

1. that Dr. Lazare be reprimanded and that the fact of the reprimand be recorded on the Register;
2. that Dr. Lazare's Certificate of registration be suspended for a period of six months, to

commence on September 1, 1999, three months of which will be suspended if Dr. Lazare fulfills the following conditions that will be imposed on his Certificate of registration:

- (a) that he not engage in hour long psychotherapy or counselling sessions with patients until Dr. S., in consultation with Dr. Lazare's treating therapist, satisfies the Registrar that it is appropriate for Dr. Lazare to resume hour long psychotherapy or counselling, and only then under such conditions, if any, which may be recommended by Dr. S. and accepted by the Registrar at that time;
- (b) that Dr. Lazare continue to receive counselling by a counsellor acceptable to the Registrar and;
- (c) that the counsellor inform the Registrar when counselling has ended;

3. In the event that the Registrar is notified of a breach of any of the above conditions, the certificate of registration shall be suspended for the balance of the six month term.

Dr. Lazare waived his right of appeal and the reprimand was administered by the panel. The Committee recommended that Dr. Lazare undertake appropriate further training before undertaking any further hour-long psychotherapy or counselling with patients, if the above conditions are satisfied.