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**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 Professions Procedural Code
being Schedule 2 to the
Regulated Health Professions Act 1991,c. 18 as amended.**

BETWEEN:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. DAVID EDWARD HURST

PANEL MEMBERS: DR. L. ROBINSON (Chair)
DR. D. BIENENSTOCK
J. MacDONALD

HEARING DATE: December 1, 1997

DECISION/RELEASED DATE: December 1, 1997

DECISION AND REASONS FOR DECISION

This matter came before the Discipline Committee of the College of Physicians and Surgeons of Ontario at Toronto on December 1, 1997.

In accordance with section 4.1 of the *Statutory Powers Procedure Act*, the parties consented to the disposition of this proceeding, without a hearing, by an order of the Discipline Committee, following the Committee's acceptance of a Statement of Agreed Facts and Consent Disposition.

THE ALLEGATION

In the Notice of Hearing it was alleged that Dr. David Edward Hurst is guilty of professional misconduct under paragraph 1(1) 33 of Ontario Regulation 856/93, in that Dr. Hurst engaged in an act or omission relevant to the practice of medicine that, having regard to all circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

The College withdrew two other allegations.

THE FACTS

Particulars of the allegation, which involved two matters, were detailed in the Statement of Agreed Fact, as follows:

First Matter

Dr. Hurst was Ms. UOL's primary-care physician from at least September 22, 1992 until August 25, 1994, during which time she was experiencing marital difficulties. She separated from her husband in the summer of 1994. Dr. Hurst provided counselling and prescribed psychotropic medication for Ms. UOL as part of his professional care.

On August 25, 1994, Dr. Hurst kissed Ms. UOL during a professional encounter with her in his medical office. From October 28, 1994 until the spring of 1995, Dr. Hurst engaged in sexual intercourse and was otherwise intimate with Ms. UOL on several occasions.

Second Matter

Mr. OKB and Mrs. XWJ were the parents of OEX, who drowned on July 30, 1993, when she was five years old. Dr. Hurst attended at the drowning and was unable to resuscitate OEX. In his capacity as family physician to Mr. OKB and his three children, Dr. Hurst provided grief counselling on one occasion for Mr. OKB following the death of OEX. At her request, as a friend and not as her physician, Dr. Hurst provided support and assistance to Mrs. OKB in respect of OEX's death.

From approximately February 1994 to May 1996, Dr. Hurst engaged in a sexual relationship with Mrs. XWJ, which included sexual intercourse from approximately March 1994 to April 1996. Dr. Hurst directed that an emergency department medical record be created for Mrs. XWJ, dated March 23, 1994, at Hospital VBJ in a northern Ontario city, when he saw her for sexual, but not any medical, purposes.

Dr. Hurst did not refer or try to refer Mrs. XWJ for counselling. He denied the nature of his sexual relationship with Mrs. XWJ when Mr. OKB asked him in February 1995 and in May 1995.

The following exhibits were also placed before the Committee: (1) the report of Dr. HAL, Psychiatrist in Chief in the Department of Psychiatry at Hospital RHX in regard to Dr. HAL's assessments of Dr. Hurst on June 20, 1997, and on October 16, 1997; (2) the report of Ms. NJY, psychometrist at Hospital SUG, in a northern Ontario city, who had assessed and treated Dr. Hurst since the summer of 1996, under the supervision of her supervising psychologist, Dr. FOR; (3) a brief of character references for Dr. Hurst; and (4) Ms. UOL's victim impact statement.

The Committee reviewed all the material provided and received clarification where necessary from counsel for both parties.

THE PLEA

The doctor pleaded guilty to the charge of professional misconduct.

THE ORDER REGARDING DECISION AND PENALTY

On reviewing the notice of hearing, the statement of agreed facts, the admission and withdrawal of allegations, the consent disposition, and all other exhibits provided, this Committee:

1. Finds Dr. David Edward Hurst guilty of professional misconduct as defined in paragraph 1(1).33 of Ontario Regulation 856/93, in that Dr. Hurst engaged in acts or omissions relevant to the practice of medicine that, having regard to all of the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, which are more particularly specified in the statement of agreed facts.
2. Directs the Registrar to suspend Dr. Hurst's certificate of registration, starting on a date before March 1, 1998, to be fixed by the Registrar.
3. Directs the Registrar to remove the suspension after a period of eight weeks if:
 - (1) Dr. Hurst,
 - (a) has completed sessions in the management of clinical boundaries and the management of boundary violations with Dr. OPE, until Dr. OPE is satisfied that further sessions are not necessary; and
 - (b) has instructed Dr. OPE to report, and Dr. OPE has reported, to the Registrar. This report will include Dr. OPE's assessment, the nature of the interventions, and his satisfaction with the outcome in terms of Dr. Hurst's understanding and management of clinical boundaries and boundary violations.

- (2) Dr. Hurst,
 - (a) has started a course of treatment by a certified psychiatrist, or a psychologist who is a member of the College of Psychologists of Ontario, acceptable to the Registrar, who is knowledgeable about the facts resulting in the finding of professional misconduct in this order, and who agrees to provide reports acceptable to the Registrar six months and one year after the start of the treatment program; and
 - (b) has agreed to continue in the treatment program and follow the advice of the psychiatrist or psychologist, for as long as the psychiatrist or psychologist considers treatment to be advisable.
- 4. Directs Dr. Hurst be reprimanded, and such reprimand be recorded on the Register.

Dr. Hurst waived his right of appeal and the reprimand was duly administered.