

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Morzaria, this is notice that the Discipline Committee ordered a ban on the publication, including broadcasting, of the name or any information that could identify the patient who has been referred to in this proceeding as “Patient A”, pursuant to 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 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: Ontario (College of Physicians and Surgeons of Ontario) v. Morzaria,
2017 ONCPSD 48**

**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. RASIKLAL NARSHIDAS MORZARIA

PANEL MEMBERS:

**DR. E. STANTON (CHAIR)
MAJOR A.H. KHALIFA
DR. P. POLDRE
MS D.GIAMPIETRI
DR. P. GARFINKEL**

**COUNSEL FOR THE COLLEGE OF PHYSICIANS AND SURGEONS OF
ONTARIO:**

MS C. SILVER

COUNSEL FOR DR. MORZARIA:

**MR. P-E. VEEL
MS L.D. HOGG**

INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:

MR. D. ROSENBAUM

Hearing Date: September 11, 2017
Decision Date: September 11, 2017
Release of Written Reasons: November 10, 2017

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 September 11, 2017. At the conclusion of the hearing, the Committee released a written order stating its finding that the member committed an act of professional misconduct, in that he has engaged in the sexual abuse of a patient and 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 setting out its penalty and costs order with written reasons to follow.

ALLEGATIONS

The Notice of Hearing alleged that Dr. Rasiklal Narshidas Morzaria committed an act of professional misconduct:

1. under clause 51(1)(b. 1) of the Health Professions Procedural Code (the "Code"), which is Schedule 2 to the Regulated Health Professions Act, 1991, S.O. 1991, c.18, in that he has engaged in the sexual abuse of a patient; and
2. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the Medicine Act, 1991 ("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.

RESPONSE TO THE ALLEGATIONS

Dr. Morzaria entered a plea of no contest to the allegations in the Notice of Hearing.

THE FACTS

A Statement of Facts was filed as an exhibit and presented to the Committee. Dr. Morzaria did not contest the facts set out in the Statement of Facts for the purposes of this proceeding.

The following facts were set out in the Statement of Facts:

1. Dr. Morzaria treated Patient A from the time Patient A was six years old until he was twelve.

A. Sexual Abuse of Patient A During Regular Office Appointments

2. When Patient A and his mother attended at Dr. Morzaria's office for appointments, Dr. Morzaria would often ask Patient A's mother to wait outside the examination room, claiming that Patient A was old enough to be seen alone. Alone with Patient A, Dr. Morzaria touched, rubbed/stroked and played with Patient A's penis. Dr. Morzaria would ask Patient A if it felt good, and tell him to come visit him on week-ends. When Patient A's mother was in the room, Dr. Morzaria would usually just check Patient A's genitals to follow up on a prior surgery.
3. At one appointment, while Patient A's mother was outside the examination room, Dr. Morzaria took his penis out of his pants and asked Patient A to suck it. Patient A refused, but was scared.
4. Dr. Morzaria told Patient A he was an undercover cop and that if he told anyone what was happening, he and his family would spend the rest of their lives in jail. This made Patient A afraid to tell his parents.

B. Sexual Abuse of Patient A During Weekend Visits to Dr. Morzaria's Office

5. Dr. Morzaria would sometimes pick Patient A up at his home and drive him to the office on the weekends, when there were no staff members present. To arrange these visits, Dr. Morzaria would call the family home and speak to Patient A and his mother. Patient A's mother agreed to these outings, which Dr. Morzaria had

offered on his own initiative, as Dr. Morzaria was a doctor and she trusted him. Patient A felt he had to go because he believed Dr. Morzaria was an undercover cop.

6. During one weekend visit, Dr. Morzaria showed Patient A a magazine or book with pictures of “private parts” and stroked Patient A’s thigh. On other occasions, Dr. Morzaria made Patient A sit on his lap, and once, while Patient A was on his lap, he asked Patient A for a kiss. When Dr. Morzaria made him sit on his lap, Patient A felt like he had no choice.
7. At one weekend visit, when Patient A’s sibling was with him, Dr. Morzaria grabbed Patient A by his arm and tried to take him into another room. Patient A said he would scream if Dr. Morzaria didn’t let go of him. Dr. Morzaria let him go. At another appointment, Patient A cried, and Dr. Morzaria took him home.
8. On the way to his office on weekend visits, Dr. Morzaria took Patient A to the drive-through at Burger King and bought him food. He told Patient A to keep his head down, and to say that he was Dr. Morzaria’s grandson if asked.
9. Dr. Morzaria promised Patient A a laptop and computer games for visiting him, and later gave Patient A and his family a computer and a laptop.

C. Patient A Discloses Abuse

10. At his last appointment, Patient A refused to allow Dr. Morzaria to examine him below the waist. After this appointment, Patient A’s mother became suspicious and asked Patient A repeatedly about why he seemed to be acting differently with Dr. Morzaria. Shortly thereafter, Patient A disclosed to his mother that Dr. Morzaria had sexually abused him. Patient A and his mother terminated the doctor-patient relationship.

D. Dr. Morzaria’s Interference with Police Investigation

11. Dr. Morzaria called Patient A’s house after the matter was reported to the police, and tried to dissuade Patient A’s mother from pursuing her complaint with threats of publicity for her family.

RULE 3.02 OF THE RULES OF PROCEDURE OF THE DISCIPLINE COMMITTEE

Rule 3.02 of the Discipline Committee's Rules of Procedure regarding a plea of no contest states as follows:

3.02(1) Where a member enters a plea of no contest to an allegation, the member consents to the following:

- (a) that the Discipline Committee can accept as correct the facts alleged against the member on that allegation for the purposes of College proceedings only;
- (b) that the Discipline Committee can accept that those facts constitute professional misconduct or incompetence or both for the purposes of College proceedings only; and
- (c) that the Discipline Committee can dispose of the issue of what finding ought to be made without hearing evidence.

FINDING

The Committee accepted as correct all of the facts set out in the Statement of Facts. Having regard to these facts, the Committee accepted Dr. Morzaria's plea and found that he committed an act of professional misconduct, in that he has engaged in the sexual abuse of a patient, and 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.

PENALTY AND REASONS FOR PENALTY

Counsel for the College proposed that an appropriate penalty and costs order include:

- immediate revocation of Dr. Morzaria's certificate of registration;
- a public reprimand;

- an Order that Dr. Morzaria reimburse the College for the cost of therapy or counselling for the victim, and that he post security in the amount of \$16,060.00; and
- that Dr. Morzaria pay costs to the College for five hearing days in the amount of \$27,500.00. (Dr. Morzaria's plea was entered on the first of five hearing days that had been scheduled for the week of September 11)

Counsel for Dr. Morzaria did not oppose the proposed penalty and costs order.

Factors to Consider in Determining Penalty

The Committee considered protection of the public from further professional misconduct by this physician to be of the utmost importance in determining the appropriate penalty. In addition, the Committee considered the necessity of maintaining the public's confidence in the profession and the College's ability to regulate the profession in the public interest. The penalty must also provide specific and general deterrence, communicate the profession's disapproval of the misconduct, and take into account any aggravating and mitigating factors. This was not a case where the member's potential for rehabilitation was a relevant factor.

Mandatory Revocation

The Statement of Facts documented misconduct of Dr. Morzaria that included: "Alone with Patient A, Dr. Morzaria touched, rubbed/stroked and played with Patient A's penis". Revocation of Dr. Morzaria's certificate of registration was mandatory in these circumstances under subsection 51(5) 3(iv) of the Code: "Masturbation of the patient by the member". However, the Committee was of the opinion that even if revocation was not mandatory, Dr. Morzaria's exploitive behavior involving a vulnerable patient would require the most severe penalty available.

Seriousness of the Misconduct

The Committee regarded the behavior of Dr. Morzaria to be most egregious and condemns it. This was not an isolated incident. His sexual abuse of this vulnerable young child continued over a period of six years. As the patient's physician, Dr. Morzaria was clearly in a position of authority and trust, which he then abused by sexually abusing Patient A. He used both rewards (i.e., buying him food, a computer and a laptop) and coercion (i.e., pretending to be an undercover policeman and threatening harm to the family) to advance his own selfish interests to the detriment of his patient. He later tried to dissuade Patient A's mother from pursuing her complaint with the police, with threats of publicity for her family.

Protection of the Public and Maintenance of Public Confidence

The revocation of Dr. Morzaria's certificate of registration will serve to protect the public from any further misconduct by him. It will also serve to maintain public confidence in the integrity of the medical profession, and in the College's ability to regulate the profession in the public interest. Behavior such as Dr. Morzaria's has the potential to bring into disrepute the reputation of the profession as a whole. The public must feel confident that a physician who misuses his position of trust and authority to take advantage of a patient in the way that Dr. Morzaria has will lose his ability to practise medicine.

General Deterrence

The practice of medicine is a privilege, not a right, and Dr. Morzaria abused that privilege. Other colleagues must recognize how seriously the profession takes such abusive behavior. The revocation of Dr. Morzaria's certificate of registration conveys to the profession that a physician who exploits others for his own gratification cannot remain a member of the profession.

Specific Deterrence

Revocation is the most effective specific deterrent as it ensures that Dr. Morzaria will never again be in a position to prey on his patients.

Aggravating Factors

As summarized above, there were significant aggravating factors in this case.

1. A Position of Trust and Power Imbalance

Patient A was a very young child. Dr. Morzaria was his physician, and he seduced him with bribes of food and computer equipment, but also coerced him by threatening harm to his family. Dr. Morzaria was clearly in a position of trust and he disregarded this trust, using Patient A for his personal sexual gratification. This abuse of a vulnerable patient over the span of six years is the most disgraceful disregard of the fundamental principles of the medical profession. The medical profession must guard against such physician behaviour – it damages society and undermines the fundamental trust that must exist in a doctor-patient relationship.

2. Many Incidents Over the Period of Six Years

The prolonged nature of the relationship showed this was not an impulsive act on Dr. Morzaria's part. Rather, he used his position and medical practice to seduce and abuse a child over a period of six (6) years.

3. The Very Young Age of the Patient

The sexual abuse began when Patient A was just six (6) years old and continued until he was twelve (12). There was no recognition on the part of Dr. Morzaria of the harm he was causing this boy, in spite of the child's attempts to refuse his advances. Dr. Morzaria's behaviour suggested that he was grooming Patient A as a sexual object, despite the fact that he was a young vulnerable child. Dr. Morzaria was a mature adult, which further emphasizes the need for him to have exercised good judgment and integrity in his actions.

4. The Significant Effects of the Abuse on Patient A's Life

The powerful victim impact statement from Patient A, submitted at the hearing – five years after the last incident – moved the Committee. It indicated the long standing effect of the abuse. Patient A wrote, “I couldn’t focus at school...I wouldn’t talk to older men...It became hard for me to trust anybody.” Patient A also described flashbacks when he approached Dr. Morzaria’s old office; he had difficulty focusing and stated, “These experiences made me feel very badly about myself.”

5. Impeding the Police Investigation

The Committee viewed Dr. Morzaria’s attempts to interfere with the police investigation as further evidence of his distortion of the truth and morality; and an ongoing attempt to protect himself without ever considering this young boy or his family.

FUND AND SECURITY OF PAYMENT TO FUND FOR PATIENT THERAPY

The Committee also concluded that this was an appropriate case in which to require Dr. Morzaria to reimburse the College for funding provided to Patient A for therapy and counselling under the program required under section 85.7 of the Code, and to post security to guarantee payment of such amounts to the College, in the amount of \$16,060.

COSTS

The Committee concluded that this was an appropriate case in which to make an order of costs against Dr. Morzaria in the amount sought by the College.

ORDER

The Committee stated its finding of professional misconduct in paragraph 1 of its written order of September 11, 2017. In that order, the Committee ordered and directed on the matter of penalty and costs that:

2. the Registrar revoke Dr. Morzaria's certificate of registration effective immediately.
3. Dr. Morzaria appear before the panel to be reprimanded.
4. Dr. Morzaria reimburse the College for funding provided to patients under the program required under section 85.7 of the Code, by posting an irrevocable letter of credit or other security acceptable to the College, in the amount of \$16,060.00, within thirty (30) days of the date of this Order.
5. Dr. Morzaria pay costs to the College in the amount of \$27,500.00, within thirty (30) days of the date of this Order.

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

TEXT of PUBLIC REPRIMAND
Delivered September 11, 2017
in the case of the
COLLEGE OF PHYSICIANS and SURGEONS of ONTARIO
and
Dr. Rasiklal Narshidas Morzaria

Dr. Morzaria,

This Committee is shocked and appalled by your behaviour. Through the College the medical profession has a responsibility to protect the public interest.

Maintaining boundaries is the foundation of building a trusting doctor patient relationship. By repeatedly sexually abusing a young extremely vulnerable boy over a number of years for your own personal gratification, you violated those boundaries and trust.

The Committee was moved by the victim impact statement. It is clear that the effects and harm of your actions continue to this day. This Committee cannot understate its abhorrence of your most egregious misconduct. By your actions you have not only brought shame to yourself but also to the profession as a whole. Your misconduct not only involved deceit and coercion but also interfered with the police investigation. This behaviour cannot and indeed will not be tolerated by the profession or the public at large.

It damages society and undermines the fundamental trust that must exist in a doctor patient relationship. Without question the appropriate penalty in this case is revocation.

You will now leave the profession in disgrace.

This is not an official transcript