

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Mohanlal Bhulabhai Lad, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of the patient or any information that could disclose the identity of the patient under subsection 45(3) of the *Health Professions Procedural Code* (the Code), which is Schedule 2 to the *Regulated Health Professions Act, 1991*.

Subsection 93 of the Code, which is concerned with failure to comply with these orders, reads:

93(1) Every person who contravenes an order made under section 45 or 47 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and not more than \$20,000 for a subsequent offence.

Indexed as: Lad (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(2)
of the *Health Professions Procedural Code*,
being Schedule 2 to 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. MOHANLAL BHULABHAI LAD

PANEL MEMBERS: DR. J. DOHERTY (CHAIR)
J. ASHMAN
DR. K. BRACKEN
J. DHAWAN
DR. I. BAXTER

Hearing Date: February 22, 2005
Decision/ Release Date: February 22, 2005

Publication Ban

DECISION AND REASONS FOR DECISION

The Discipline Committee of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on February 22, 2005. At the conclusion of the hearing the Committee delivered an order in writing stating its finding that the member committed an act of professional misconduct and stating its penalty order, with written reasons to follow.

PUBLICATION BAN

On February 22, 2005, the Discipline Committee made an order pursuant to subsection 45(3) of the Health Professions Procedural Code (the “Code”), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, prohibiting the publication or broadcast of the name of the patient, or any information that could disclose the name or identity of the patient.

ALLEGATIONS

The Notice of Hearing alleged that Dr. Lad committed an act of professional misconduct 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 acts 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 Notice of Hearing also alleged that Dr. Lad is incompetent as defined by subsection 52(1) of the Code, in that his care of patients displayed a lack of knowledge, skill or judgment or disregard for the welfare of his patients of a nature or to an extent that demonstrates that he is unfit to continue practise or that his practise should be restricted.

RESPONSE TO THE ALLEGATIONS

Dr. Lad admitted to the allegation of professional misconduct set out in the Notice of Hearing, and counsel for the College withdrew the allegation of incompetence, as indicated in paragraphs 14 and 15 of the Statement of Facts, Withdrawal and Admission.

EVIDENCE

The following facts were agreed to in the Statement of Facts, Withdrawal, and Admission filed with the Committee.

Part I – STATEMENT OF FACTS

A. Background

1. Dr. Mohanlal Bhulabhai Lad (“Dr. Lad”) is a general practitioner who has held a Certificate of Registration authorizing independent practice in Ontario since 1972.
2. Dr. Lad has been a family physician in Ontario since 1973.

B. Current Allegations

3. In May, 2003, Patient A, a seven-year-old boy, attended at Dr. Lad’s office for a physical examination prior to being placed in a foster home. He was accompanied throughout the appointment by a group home worker.
4. Patient A had been a patient in Dr. Lad’s practice since May, 1995. According to Dr. Lad, Patient A was typically very vocal and boisterous when he attended at Dr. Lad’s office. He was unusually quiet and passive on this visit. Dr. Lad’s complete chart for Patient A is attached at Tab 1 [to the Statement of Facts].
5. Dr. Lad used rude and inappropriate language in front of and when speaking to Patient A in May, 2003. Dr. Lad swore in front of Patient A and asked the group home worker if his mother was “still a crack head”.
6. Dr. Lad also asked Patient A if he still had a “small dick” in May, 2003. According to Dr. Lad, he used the term in an ill-advised attempt to put the child at ease.

7. The group home worker completed an Incident Report about Dr. Lad's conduct immediately after attending at Dr. Lad's office in May, 2003. In her report she recorded her concerns about Dr. Lad's "inappropriate verbal conduct in the presence of and directed toward" Patient A. The report is attached at Tab 2 [to the Statement of Facts].

8. In August, 2003 a family services worker for the Children's Aid Society ("CAS") met with Dr. Lad to follow-up on the incident. Dr. Lad advised her that he had been dealing with Patient A's family for 20 years, that the entire family was dysfunctional and that members of the family abused drugs. Dr. Lad also advised the worker that Patient A's family frequently addresses each other in common terms and expletives and that his mother had used derogatory terms to Dr. Lad in the past.

9. When the CAS worker confronted Dr. Lad about the abusive language he used during the appointment with Patient A, he agreed that he should not have spoken in such a manner. Dr. Lad confirmed that he had asked Patient A if he still had a "small dick" and stated that the reason he asked this was because most Afro-Americans have "big dicks". According to Dr. Lad, he said this out of nervousness and embarrassment when confronted with the inappropriateness of his comment to Patient A.

10. Dr. Lad apologized to the CAS worker for his conduct with Patient A in May, 2003. He said he was extremely sorry for his conduct and that an incident of this nature would not occur again.

11. The CAS complained to the College of Physicians and Surgeons of Ontario ("CPSO") about Dr. Lad's conduct in May, 2003 and his comments to the CAS worker in August, 2003. The letter from the CAS to the CPSO is attached at Tab 3 [to the Statement of Facts].

12. Investigators from the CPSO attended at Dr. Lad's office on December 1, 2003 in order to initiate the College's investigation of the CAS complaint. Dr. Lad acknowledged that his conduct with Patient A in May, 2003 had been inappropriate and expressed regret for his conduct.

13. Dr. Lad also acknowledged that his conduct with Patient A in May, 2003 had been inappropriate and expressed regret for his conduct in his written reply to the CPSO with respect to

the CAS complaint. The letter from Dr. Lad to the CPSO dated January 23, 2004 is attached at Tab 4 [to the Statement of Facts].

PART II – WITHDRAWAL

14. The College withdraws the allegation that Dr. Lad is incompetent.

PART III – ADMISSION

15. Dr. Lad admits that the conduct set out above constitutes professional misconduct under paragraph 1(1)33 of Ontario Regulation No. 856/93, made under the *Medicine Act, 1991*, in that he has engaged in conduct or an act or acts relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

FINDING

The Committee accepted as true all of the facts set out in the Statement of Facts. Having regard to these facts and Dr. Lad's admission, the Committee found that Dr. Lad committed an act of professional misconduct under paragraph 1(1)33 of Ontario Regulation No. 856/93, made under the *Medicine Act, 1991*, in that he has engaged in conduct or an act or acts 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 DECISION AND REASONS

Counsel for the College and counsel for Dr. Lad made a joint submission regarding penalty.

The Committee carefully considered the joint submission regarding penalty and accepted the proposed penalty. Dr. Lad used inappropriate and offensive language with the patient. This was aggravated in that the patient was a child and the language used reflected ethnic stereotyping. The Committee also considered that Dr. Lad demonstrated remorse for his behaviour. Dr. Lad's written response of acceptance of responsibility to the College, his acceptance of responsibility with a caseworker of CAS, and the fact that Dr. Lad has no past history of any wrongdoing are mitigating factors in this case.

The Committee concluded that the joint penalty submission properly reflects disapproval of Dr. Lad's conduct and fulfils the objectives of both general and specific deterrence. As well this penalty addresses the need to protect the public, and sends a clear message of the Discipline Committee's strong disapproval of the language used by the physician, aggravated by its use in the presence of a child.

The Committee considered that a two-month suspension and recorded reprimand are not only signals to Dr. Lad but also to the profession in general.

ORDER

Therefore, the Discipline Committee ordered and directed that:

1. The Registrar suspend Dr. Lad's Certificate of Registration for a period of two months, commencing on March 1, 2005.
2. The Registrar impose the following terms, conditions and limitations on Dr. Lad's Certificate of Registration:
 - (a) Dr. Lad is required to successfully complete, at his own expense, within six months of the finding of professional misconduct:
 - (i) the College's course "Physician-Patient Communication and Interviewing Skills"; and
 - (ii) the College's course "Medical Ethics".
3. Dr. Lad attend before the Discipline Committee to be reprimanded and that the fact of the reprimand be recorded on the Public Register.

At the completion of the hearing Dr. Lad waived his right to appeal and the Committee delivered the reprimand.