

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Vladimir Vasic, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity and any information that would disclose the identity of the patients whose names are disclosed at the hearing, under subsection 45(3) of the *Health Professions Procedural Code* (the “Code”), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, as amended.

Subsection 93(1) of the Code, which is concerned with failure to comply with these orders, reads, in relevant part:

Every person who contravenes an order made under...section 45 or 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: Vasic (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 26(2) and 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. VLADIMIR VASIC

PANEL MEMBERS:

**DR. M. GABEL
DR. F. SLIWIN
DR. E. ATTIA (Ph.D.)
DR. P. TADROS
B. FEVREAU**

Hearing Dates:	November 3-5, 2008
Decision Release Date:	May 11, 2009
Release of Written Reasons:	May 11, 2009

PUBLICATION BAN

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 November 3-5, 2008. At the conclusion of the hearing, the Committee reserved its decision.

THE ALLEGATIONS

The Notice of Hearing alleged that Dr. Vasic committed the following acts of professional misconduct:

As described in Schedule “A” to the Notice of Hearing:

1. under clause 51(1)(b.1) of the Health Professions Procedural Code, which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18 (the “Code”), as amended, in that he has sexually abused patients; 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 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.

As described in Schedule “B” to the Notice of Hearing:

1. under paragraph 1(1)1 of O. Reg. 856/93, in that he contravened a term, condition or limitation on his certificate of registration; and
2. under paragraph 1(1)33 of O. Reg. 856/93, in that he 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. Vasic did not attend the hearing nor did he send counsel on his behalf. In the absence of Dr. Vasic, a response was appropriately entered that Dr. Vasic denied the allegations, thus putting the onus on the College to prove them.

PRELIMINARY MATTER

Proceeding *In Absentia*:

Prior to the commencement of the hearing, the Committee heard evidence in order to decide whether to proceed with the hearing *in absentia*.

The Committee heard evidence from Ms. A, Hearings Coordinator at the CPSO, detailing correspondence from Ms. A to Dr. Vasic, and from Dr. Vasic to Ms. A. The Committee found that Dr. Vasic was properly served and received ample notice that the hearing was proceeding and was advised to seek counsel. The Committee concluded that Dr. Vasic was clearly aware that the hearing was proceeding on November 3, 2008. There are procedures in place to adjourn a hearing, if and when that is appropriate, but Dr. Vasic did not seek an adjournment. A physician cannot control the process by deciding not to attend a hearing. The Notice of Hearing stated: "If Dr. Vasic does not attend at the hearing, the discipline panel may proceed in his absence and he will not be permitted any further notice of the proceedings." The Committee decided that it was in the public interest to proceed with the hearing.

FACTS AND EVIDENCE

Overview of the Issues:

The College did not ask for a finding, nor present evidence in relation to the allegations in Schedule "A", for Patient A. The College proceeded with their case on the basis of

Schedule “A”, Patient B (sexual abuse), and on Schedule “B” (practicing while suspended and failing to cooperate with a College investigation).

(1) These allegations, under Schedule A, regarding Patient B, raise the following issues:

- i) Was Patient B a patient of Dr. Vasic?
- ii) Did Dr. Vasic sexually abuse this patient?
- iii) Would the conduct of Dr. Vasic be reasonably regarded by members of the profession as disgraceful, dishonorable or unprofessional?

(2) These allegations, under Schedule B, raise the following issues:

- i) Did Dr. Vasic contravene a term, condition or limitation on his certificate of registration?
- ii) Did Dr. Vasic fail to cooperate with the College’s investigation, fail to answer inquiries from the College, and fail to provide patient charts in the course of the College’s investigation?
- iii) Would the conduct of Dr. Vasic be reasonably regarded by members of the profession as disgraceful, dishonorable or unprofessional?

Summary of Evidence in relation to the Schedule “A” Allegations:

The Voir Dire:

The following exhibits were tendered on the *voir dire*:

1. A videotape;
2. An audiotape;
3. Transcripts of the audiotape.

1. Videotape

The admission into evidence of the videotape showing a male and female engaged in sexual intercourse raises the following issues:

- i) Can the participants on the videotape be identified?
 - ii) Can the location on the videotape be identified?
- i) The videotape was given by Patient B to Ms. C, an investigator for the CPSO. Ms. C interviewed Patient B on three occasions, and attended at the office of Dr. Vasic where she personally spoke with him. Ms. C identified the participants on the videotape as Patient B and Dr. Vasic.

Mr. D, a private investigator hired by the CPSO, viewed the videotape. He then identified Dr. Vasic on the basis of his personal surveillance and prior contact, and confirmed that Dr. Vasic was the man on the videotape.

The Committee considered the case of *R. v. Nikolovski*, which states, “So long as the videotape is of good quality and gives a clear picture of events and the perpetrator, it may provide the best evidence of the identity of the perpetrator. It is relevant and admissible evidence that can by itself be cogent and convincing evidence on the issue of identity.”

- ii) Ms. C provided photographs that she had taken in Patient B’s bedroom. These photos were tendered as an exhibit. The photographs provided confirmation that the videotape was taken in Patient B’s bedroom.

The Committee accepted the videotape into evidence and marked it as an exhibit. The Committee accepts the identity of the participants in the videotape as Dr. Vasic and Patient B.

The Committee further accepts the location of the sexual conduct shown in the videotape as the bedroom of Patient B.

2. Audiotape

The admission of the audiotape into evidence raises the following issues:

- i) Can the voices on the audiotape be identified?
 - ii) Was the integrity of the audiotape maintained?
- i) Ms. C received the audiotape directly from Patient B. Ms. C, who had interviewed both Patient B and Dr. Vasic, identified the voices on the audiotape as Patient B and Dr. Vasic. Both Dr. Vasic and Patient B identified themselves more than once on the audiotape.
 - ii) The conversation on the tape is continuous and makes reference to external events, which are consistent with the dates of then-current events. There is no evidence of tampering or alteration of the audiotape.

The Committee considered the case of *R. v. Parsons*, which states, “The Crown’s proof as to the integrity of the tape, its accuracy, its continuity, and voice identification, and that there has been no tampering nor alterations in any way all relate to the proof that the evidence tendered is an accurate reproduction of what it is alleged the person against whom it is tendered said. The weight to be given to that evidence is for the jury, and the admissibility of such evidence is not subject to any statutory conditions precedent, and should be dealt with in the same manner as any other issues of fact, which arise in every jury trial.”

The Committee applied the principles in this case and accepted the audiotape into evidence. On that evidence, the Committee accepts and finds that the voices on the audiotape belong to Patient B and Dr. Vasic.

3. Transcripts of the audiotape

The transcript of the audiotape was not itself evidence. The transcript was used only for assistance while listening to the audiotape, and was marked as an exhibit for that purpose only.

Credibility of Witnesses:

1. Ms. C, CPSO Investigator:

Ms. C testified in a concise, straightforward and professional manner. She reviewed her notes when necessary. Her testimony was internally and externally consistent. The Committee considered Ms. C a credible and helpful witness. By virtue of her direct contact with Patient B and Dr. Vasic, she was able to identify them both in the videotape and audiotape admitted into evidence. She was also able to identify the bedroom of Patient B, the placement of the hidden videocamera, and took photos which were of great assistance to the Committee in determining the location where the sexual activity took place. She collected handkerchiefs that Patient B provided to her, and delivered them to the forensic expert for analysis.

2. Mr. D, Private Investigator:

Mr. D provided testimony in a professional manner; his testimony was internally and externally consistent. Mr. D was accepted as a credible witness. He was thorough in his description of how he obtained the material submitted for forensic examination. This included a mug, spoon and napkin used by Dr. Vasic in a restaurant.

3. Mr. E, Forensic Expert:

After reviewing Mr. E's CV, his education and work experience, the Committee accepted Mr. E as an expert witness. He is a forensic scientist who was called as an expert witness by the College. He supervised semen analysis tests undertaken on four handkerchiefs that

were given to him by Ms. C. He testified to the proper chain of custody of all of the materials given to him for forensic analysis.

He obtained DNA evidence from a mug, spoon and napkin given to him by Mr. D. He prepared reports that were admitted into evidence which concluded, on the probabilities, that the DNA in the semen on the handkerchief received from Patient B was Dr. Vasic's DNA, based on the analysis of the objects received from Mr. D.

4. Mr. F, CPSO Investigator:

Mr. F testified in a professional manner and referred to notes when necessary. Mr. F was accepted by the Committee as a credible witness. He was a College investigator who attended at the office of Dr. Vasic during the investigation, where he was physically, and rudely, removed by Dr. Vasic from his office.

5. Dr. G, Workplace Safety and Insurance Board (WSIB):

Dr. G testified in a clear and professional manner. His testimony was internally and externally consistent. Dr. G was accepted as a credible witness by the Committee. He testified that he received two medical reports signed by Dr. Vasic during the period that Dr. Vasic was suspended from practice.

6. Pharmacists:

Eight pharmacists testified. Each of the pharmacists testified to receiving prescriptions signed by Dr. Vasic during the time that Dr. Vasic was suspended from medical practice. The Committee accepted all of the pharmacists as credible witnesses, who had acted professionally and responsibly.

7. CPSO Staff:

The CPSO staff testifying to the service of documents and the chain of custody of evidence were all accepted as credible witnesses.

Signatures:

The issue raised with respect to signatures is as follows:

- i) Can the signatures on the letters from Dr. Vasic to the CPSO and on the prescriptions be identified as the signature of Dr. Vasic, when compared to the information on the register?

The Committee considered the case of *R. v. Abdi*, which states, “A trier of facts’ comparison of handwriting without the assistance of an expert or lay witness is analogous to a trier of facts’ comparison of the accused with video evidence. The trier of fact should similarly be entitled to make the comparison. Depending on the distinctiveness of the writings in issue, the comparison does not necessarily require expertise or particular knowledge of the relevant handwriting. The question, as in most cases involving identifying evidence, is the weight to be attached to the evidence and the manner in which the trier of fact is to be cautioned in this respect.”

The Committee compared the signature of Dr. Vasic on the registration documents with the other documents, and found that the signatures on the prescriptions, and on the letters from Dr. Vasic to the CPSO, belong to Dr. Vasic.

Evidence of a Physician-Patient Relationship:

Patient Chart:

- Ms. C obtained Patient B’s chart from Dr. Vasic on April 4, 2006.
- Patient B’s chart had entries of visits between early June, 2005 and late October, 2005.
- Dr. Vasic referred Patient B to Dr. H in June, 2005.
- Dr. Vasic wrote a prescription for Patient B in August, 2005.
- Dr. H wrote a consult letter to Dr. Vasic, which indicated that he had seen Patient B in September, 2005.

- There is no note in the chart transferring Patient B to another physician.

Prescriptions:

- Two original prescriptions were entered into exhibits, which had Dr. Vasic's signature. The dates on the prescriptions in August, 2005 and October, 2005 are consistent with dates of visits in the patient chart.
- Patient B provided Ms. C with two pill bottles, which were entered as exhibits. Dr. Vasic's name is on each bottle with dates in August, 2005 and November, 2005.

OHIP Claims History:

- The OHIP claims history for Patient B was entered as an exhibit. It confirmed that claims were made by Dr. Vasic for Patient B in June, 2005; August, 2005 and October, 2005.

The Committee therefore concluded that a physician-patient relationship existed between Patient B and Dr. Vasic from early June, 2005 until late October, 2005.

Evidence and Findings of a Sexual Relationship Concurrent with the Physician-Patient Relationship:

Videotape:

- A surveillance camera was concealed in a teddy bear in Patient B's bedroom.
- A receipt received from Patient B for a surveillance camera dated September 17, 2004, was entered as an exhibit.
- The complaint to the College by Patient B was made on November 23, 2005.
- An inference can be made that the relationship occurred between these two dates.
- The Committee accepted the identity of the two participants in the sexual activity shown on the videotape as Patient B and Dr. Vasic.

- The Committee accepted into evidence photos taken of Patient B's bedroom by Ms. C.
- The Committee accepted the location of the sexual activity on the videotape as Patient B's bedroom, consistent with the photographs in evidence.

Audiotape:

- The Committee accepted that the voices on the audiotape belong to Patient B and Dr. Vasic.

Call 1:

- Dr. Vasic identifies himself.
- He states that Patient B can become a new patient.
- He provides his address and phone number.
- It can be inferred that the message is prior to the date in June, 2005, when the first patient encounter occurred.
- It is probable that the call is before Patient B and Dr. Vasic knew each other.

Call 6:

- Dr. Vasic identifies himself and says, "I love you."
- The timing of the call is referred to as "summer".
- This call is the first indication of a personal relationship.

Call 11:

- Dr. Vasic: "I left you a prescription in your mailbox."
- This is an indication of a physician-patient relationship.
- The prescription corresponds to a prescription dated in August, 2005.
- Reference is made to the Dr. H appointment in September, 2005.

- In the patient chart, the request is noted as being made in June, 2005.
- This is an indication of a physician-patient relationship.
- Dr. Vasic: “Yes, yes, I love you too much.”

Call 14:

- Patient B: “Diddy, you said you love me, do you still love me?”
- Dr. Vasic: “Yes, yes.”

Call 15:

- Dr. Vasic identifies himself.
- The call refers to seeing Dr. H next week, on a Thursday.
- This call is made in the last week of August, 2005.
- The calendar of 2005 confirms that September 1 is a Thursday.

Call 18:

- Dr. Vasic refers to a long weekend and visits to Patient B’s house.
- It can be inferred that this was the Labour Day weekend.
- Dr. Vasic: “I miss you, I miss you too.”

Call 19:

- Dr. Vasic: “Did you see Dr. H?”
- Dr. Vasic says that he will get a note from Dr. H.
- This is evidence of a physician-patient relationship.
- Dr. Vasic goes on to talk about his children and discloses information beyond what would be expected within a physician-patient relationship.
- Patient B: “Do you still love me?”
- Dr. Vasic: “Yes, yes.”

Call 20:

- Dr. Vasic: "I will come see you."
- Dr. Vasic: "I will bring the laboratory form."

Call 22:

- This call is a message confirming an appointment in September, 2005, with Dr. H.
- The timing of the call is prior to September, 2005.

Page 27 of Transcript (there was no longer reference to call numbers in the transcript):

- Patient B: "Today is September 26, already."
- Dr. Vasic: "Yeah."
- Patient B: "Today is 27, yes, tomorrow is Wednesday, 28th."
- The 2005 calendar confirmed that September 28 was a Wednesday.
- Dr. Vasic: "I'll come and see you tomorrow."

Page 30 of Transcript:

- Patient B: "Do you still love me?"
- Dr. Vasic: "Yeah, sure."

Page 31 of Transcript:

- Patient B: "You said we would live together."
- Dr. Vasic: "Yes, I'll come see you tomorrow."

Page 33 of Transcript:

- This call refers to Hurricane Wilma
- Evidence was admitted that Hurricane Wilma occurred on October 24, 2005.

Page 34 of Transcript:

- Patient B: “October 24, tomorrow.”
- Dr. Vasic: “Yes, yes.”
- Confirmed that the date is October 24, 2005.
- Dr. Vasic: “I’ll bring the prescription.”
- A copy of this prescription has been entered into evidence.
- OHIP Billing Records confirmed that Dr. Vasic billed for a patient encounter with Patient B in late October, 2005.
- This confirms a physician-patient relationship.

Page 35 of Transcript:

- Patient B: “Many times you make love to me.”
- Dr. Vasic does not deny this statement.
- Dr. Vasic: “I’m sorry.”

DNA evidence:

- Patient B delivered a handkerchief to Ms. C.
- The Committee accepted that the “chain of custody” for this evidence was proper.
- The Committee accepted the forensic evidence that the semen belonged to Dr. Vasic.
- The Maxxam Analytic Forensic Laboratory Report stated: “The probability that a randomly selected individual from the Caucasian population unrelated to the source of the DNA profile obtained from the napkin would coincidentally share the observed DNA profile is estimated to be 1 in 4.9 billion.”
- There is clear evidence that Patient B had a handkerchief in her possession with Dr. Vasic’s semen on it, that she provided to Ms. C of the College.

Letters from Dr. Vasic to the College:

- A letter dated April 27, 2006 was entered into evidence.

- The letter is on Dr. Vasic's letterhead and is signed by Dr. Vasic.
- The Committee accepted that the letter was from Dr. Vasic.
- In the letter, Dr. Vasic suggests that "a family member who looks exactly like me" had contact with Patient B.
- A letter dated June 24, 2006 was also entered into evidence.
- The letter is on Dr. Vasic's letterhead and is signed by Dr. Vasic.
- The Committee accepted that the letter was from Dr. Vasic.
- The letter states, "I used to have a close lady friend who admits providing Patient B with necessary [semen] samples."
- Dr. Vasic said that this close lady friend was now in North Korea, and could not be reached.
- Dr. Vasic does not deny that the DNA belongs to him.
- The Committee concluded that the improbable stories of "a family member who looks exactly like me" and the semen donor who was now in North Korea had been concocted, and inferred from Dr. Vasic's own evidence that he committed the act of sexual abuse alleged.

Findings of Professional Misconduct in relation to the Schedule "A", Patient B

Allegations:

The Committee found that there was clear, cogent and convincing evidence that Dr. Vasic had made remarks of a sexual nature and engaged in behaviour of a sexual nature, including engaging in sexual intercourse, with Patient B.

The allegations in Schedule "A", Patient B, are therefore proved. The Committee found that Dr. Vasic committed acts of professional misconduct, (1) pursuant to s. 51(1)(b.1) of the Code, in that he sexually abused a patient; and (2) pursuant to s. 1(1)33 of O. Reg. 856/93, in that he engaged in 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.

Evidence and Findings of Professional Misconduct in relation to the Schedule “B”

Allegations:

- Dr. Vasic’s certificate of registration was suspended effective September 14, 2007, for a period of twelve months.
- Eight pharmacists testified as to having received prescriptions from Dr. Vasic between September and November, 2007.
- Pharmacists testified having called Dr. Vasic during this time period in order to confirm the written prescriptions.
- Numerous prescriptions were admitted into evidence dated from September through November, 2007.
- Dr. G works at the WSIB and gave testimony of a form he received concerning a patient of Dr. Vasic in November, 2007.
- Dr. G also received a progress report dated October 11, 2007, signed by Dr. Vasic.
- The WSIB also received a medical note dated March 14, 2008, signed by Dr. Vasic.
- Ms. K from the CPSO testified that the Order for Suspension was sent to Dr. Vasic and to Mr. J, his legal counsel for the penalty portion of that hearing.
- The package from the College was signed for at Mr. J’s office, and the FedEx package was delivered to Dr. Vasic’s address.
- Mr. F, an investigator for the CPSO, attended at Dr. Vasic’s office.
- Dr. Vasic told Mr. F to get out of his office.
- Dr. Vasic took Mr. F by the arm and directed him out of his office.
- Dr. Vasic did not answer all of the College’s inquiries, although he did respond to some of the inquiries.
- No evidence was tendered that Dr. Vasic failed to provide patient charts.

Findings for Schedule “B”:

The Committee concluded that Dr. Vasic knew of the penalty under which his certificate of registration had been suspended, and nevertheless practiced medicine while suspended. The Committee also found that Dr. Vasic failed to cooperate with the College investigation.

Therefore, the allegations relating to Schedule “B” are proved. The Committee found that Dr. Vasic committed acts of professional misconduct, (1) pursuant to s. 1(1)1 of O. Reg. 856/93, in that he contravened a term, condition or limitation on his certificate of registration; and (2) pursuant to s. 1(1)33 of O. Reg. 856/93, in that he 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.

The Committee directs the Hearings Office to schedule a penalty hearing pertaining to the findings made.

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THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. VLADIMIR VASIC

PANEL MEMBERS:

DR. M. GABEL (Chair)
DR. E. ATTIA (Ph.D.)
DR. F. SLIWIN
B. FEVREAU
DR. P. TADROS

Penalty Hearing Date: January 13, 2010
Penalty Decision Date: January 13, 2010
Release of Written Reasons on Penalty: March 2, 2010

PUBLICATION BAN

PENALTY AND REASONS FOR PENALTY

The Discipline Committee of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on November 3 to 5, 2008. At the conclusion of the hearing, the Committee reserved its decision. On May 11, 2009, the Committee delivered its written decision and reasons and found that Dr. Vasic had committed acts of professional misconduct, in that he: sexually abused a patient; engaged in 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 contravened a term, condition or limitation on his certificate of registration.

The Committee heard submissions on penalty on January 13, 2010, and delivered its penalty order on that date with written reasons to follow.

EVIDENCE AND SUBMISSIONS ON PENALTY

The penalty hearing was originally scheduled to proceed on October 7, 2009. On that date, Dr. Vasic appeared and requested an adjournment so that he could obtain legal counsel. Although Dr. Vasic did not follow the correct process and requested an adjournment only on the date of the hearing, the penalty for a finding of sexual abuse of a patient is mandatory and severe; therefore, the Committee granted the adjournment.

The penalty phase of the hearing proceeded on January 13, 2010, at which time Dr. Vasic appeared and was unrepresented by counsel. At that time, Dr. Vasic requested a new hearing on finding. The Chair of the Committee advised Dr. Vasic that there were mechanisms available to him to appeal the decision of May 2009, but that the penalty phase of the hearing would proceed as scheduled.

The College did not call any witnesses or tender any evidence on penalty. College counsel reviewed section 51(5) of the Health Professions Procedural Code, being Schedule 2 of the *Regulated Health Professions Act, 1991* (the Code), which states:

If a panel finds a member has committed an act of professional misconduct by sexually abusing a patient, the panel shall do the following in addition to anything else the panel may do under subsection (2):

1. Reprimand the member.
2. Revoke the member's certificate of registration if the sexual abuse consisted of, or included, any of the following,
 - i. sexual intercourse,
 - ii. genital to genital, genital to anal, oral to genital, or oral to anal contact,
 - iii. masturbation of the member by, or in the presence of, the patient,
 - iv. masturbation of the patient by the member,
 - v. encouragement of the patient by the member to masturbate in the presence of the member.

In light of the finding of sexual intercourse with a patient in this case, College counsel stated that the Committee is required by the Code to order a reprimand and revocation of Dr. Vasic's certificate of registration in this matter.

College counsel requested that Dr. Vasic also be required to pay \$10,000 to the fund for treatment and counselling for the patient sexually abused by the member, pursuant to ss. 51(2) 5.1 and 5.2 of the Code, which provides that if a panel finds a member has committed an act of professional misconduct, it may make an order doing any one or more of the following:

- 5.1 If the act of professional misconduct was the sexual abuse of a patient, requiring the member to reimburse the College for funding provided for that patient under the program required under section 85.7.
- 5.2 If the panel makes an order under paragraph 5.1, requiring the member to post security acceptable to the College to guarantee the payment of any amounts the member may be required to reimburse under the order under paragraph 5.1.

Dr. Vasic did not call any witnesses or tender any evidence on penalty.

DECISIONS AND REASONS ON PENALTY

The Committee found that Dr. Vasic had sexual intercourse with a patient. Section 51(5) of the Code mandates that the Committee revoke the member's certificate of registration and reprimand the member.

Dr. Vasic has had previous discipline findings with the College. In August 2009, the Committee found that Dr. Vasic failed to maintain the standard of practice of the profession with respect to the surgical standard, and he was suspended for six months. In 2007, the Committee made a finding of professional misconduct against Dr. Vasic, and his certificate of registration was suspended for 12 months.

Notwithstanding the aggravating factor of his previous discipline findings, the conduct of Dr. Vasic in this case was abhorrent. Even if revocation had not been mandatory, the Committee would have ordered that Dr. Vasic's certificate of registration be revoked.

The Committee concluded that this was an appropriate case to order that Dr. Vasic reimburse the College for funding provided for counselling and treatment, as well as ordering Dr. Vasic to post a letter of credit or other security in the amount of \$10,000. The Committee also determined that this was an appropriate case to order costs against Dr. Vasic at the daily tariff rate of \$3,650 for each of a total of four days of hearing on finding and penalty, as requested by College counsel.

ORDER

The Discipline Committee therefore ordered and directed that:

1. The Registrar revoke Dr. Vasic's certificate of registration effective immediately.
2. Dr. Vasic appear before the panel to be reprimanded.

3. Dr. Vasic 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, by February 28, 2010, in the amount of \$10,000.
4. Dr. Vasic pay costs to the College in the amount of \$14,600 by February 28, 2010.
5. The results of this proceeding be included in the register.