

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Robin Charles Woollam, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the name or any information that could identify the complainant referred to orally or in the exhibits filed at the hearing, including her past or present place of employment under subsection 47(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, as amended.

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 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: Woollam, R. C. (Re)

**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. ROBIN CHARLES WOOLLAM

PANEL MEMBERS:

DR. E. STANTON (CHAIR)
S. DAVIS
DR. J. WATTS
M. FORGET
DR. C. LEVITT

Hearing Date: February 5, 2014
Decision Date: February 5, 2014
Release of Written Reasons: April 15, 2014

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 February 5, 2014. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty and costs order with written reasons to follow.

THE ALLEGATIONS

The Notice of Hearing alleged that Dr. Robin Charles Woollam committed an act of professional misconduct:

1. under paragraph 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, as amended (“the Code”), in that he engaged in the sexual abuse of a patient;
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; and
3. under clause 51(1)(a) of the Health Professions Procedural Code (“the Code”) which is Schedule 2 to the *Regulated Health Professions Act, 1991*, in that he has been found guilty of an offence that is relevant to his suitability to practice.

RESPONSE TO THE ALLEGATIONS

Dr. Woollam admitted the facts set out in paragraphs 1 to 5 of the Statement of Facts and Admissions set out below and admitted that as a result he had been found guilty of an offence that is relevant to his suitability to practice. Dr. Woollam did not contest the allegations set out in paragraphs 6 to 10 of the Statement of Facts and Admissions set out below. He admitted that the conduct described in those paragraphs constitutes the sexual abuse of a patient and constitutes acts or omissions 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 FACTS

The following Statement of Facts and Admissions was filed as an exhibit and presented to the Committee:

1. Dr. Robin Charles Woollam (“Dr. Woollam”) is a 61 year old family physician. He received his independent practice certificate in 1978.
2. Dr. Woollam was criminally charged on October 16, 2009 with sexual assault against Patient A, contrary to section 271 of the Criminal Code. He was convicted on November 24, 2010 (Reasons for Judgment, Justice B Duncan of the Ontario Court of Justice attached to Tab 1 of the Statement of Facts and Admissions).
3. Dr. Woollam received a twelve month conditional sentence, followed by probation for a term of one year (Reasons for Sentence, Justice B Duncan of the Ontario Court of Justice attached to Tab 2 of the Statement of Facts and Admissions).
4. Dr. Woollam’s practice has been restricted to male patients since January 5, 2011.
5. Dr. Woollam unsuccessfully appealed the decision of Justice Duncan to the Divisional Court and to the Court of Appeal for Ontario. A panel of three judges of the Court of Appeal issued their reasons dismissing leave to appeal on November 21, 2013.
6. In June 2009, at the time of the incident, Patient A was 21 years old. She had been a patient of Dr. Woollam since 2005.

7. Patient A's medical issue included psychological issues of low self-esteem and depression. She was also experiencing issues with kidney stones and ovarian cysts around the time of the incident.
8. Dr. Woollam suggested that a follow up examination with respect to her cysts, be done.
9. Patient A lay on the table in the examination room. Dr. Woollam palpated her upper abdomen and checked her ovaries. He began rubbing her stomach and talking to her. Dr. Woollam put his hand under her pants and underwear and began moving his fingers in a back and forth motion on her labia and prepuce of her clitoris. Dr. Woollam placed his left hand over her bra and then under her bra, moving his hand back and forth over her nipple and squeezing her breast.
10. Patient A described being scared and silent. The touching stopped when she sat up and said that it was time for her to go home. Dr. Woollam told her that he was attracted to her and asked her if she wanted to take things further. Patient A indicated that she did not and Dr. Woollam apologized repeatedly. Patient A told Dr. Woollam that he had crossed the line.

ADMISSION

11. Dr. Woollam admits the facts set out at paragraphs 1-5 and admits that as a result of this plea he has been found guilty of an offence that is relevant to his suitability to practice contrary to s. 51(1) of the Health Professions Procedural Code.
12. Dr. Woollam pleads no contest to the facts set out at paragraphs 6-10 and admits that the conduct described constitutes sexual abuse of a patient under clause 51(1)(b.1) of the Health Professions Procedural Code and constitutes acts or omissions relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonorable or unprofessional under paragraph 1(1)33 of O. Reg. 856/93.

FINDINGS

Dr. Woollam admitted to the allegation of having been found guilty of an offence relevant to his suitability to practice.

In relation to the allegations of sexual abuse and disgraceful, dishonourable and unprofessional conduct, Dr. Woollam's response was to plead no contest to the facts set out in paragraphs 6 to 10 of the Statement of Facts and Admissions. Regarding a plea of no contest, Rule 3.02 of the Discipline Committee's Rules of Procedure states:

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 the proceeding only;
- b) that the Discipline Committee can accept that those facts constitute professional misconduct or incompetence or both for the purposes of the proceeding only; and
- c) that the Discipline Committee can dispose of the issue of what finding ought to be made without hearing evidence.

Taking into account the admissions and the plea of no contest, the Committee accepted as true all of the facts set out in the Statement of Facts and Admissions and found that Dr. Woollam committed acts of professional misconduct in that: he engaged in the sexual abuse of a patient; 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 he has been found guilty of an offence that is relevant to his suitability to practice.

PENALTY AND REASONS FOR PENALTY

Counsel for the College and counsel for the member made a joint submission as to an appropriate penalty and costs order. The joint submission proposed revocation of Dr.

Woollam's certificate of registration, a reprimand, reimbursement for funding of the costs of therapy for the complainant under section 85.7 of the Code and payment of the costs for one day of hearing.

The Committee is aware that a joint submission as to penalty must be accepted unless it is considered to be contrary to the public interest and its acceptance would bring the administration of justice into disrepute. The Committee agreed that the proposed penalty was fair, reasonable and appropriate.

Counsel drew the attention of the Committee to previous decisions of the Committee in *CPSO and Dawson* (2005) and *CPSO and Lui* (2011). The penalties imposed in these cases were almost identical to the proposed penalty in the case at hand, although the *Dawson* case did not incorporate an order for funding of therapy. Although the facts of those cases were somewhat different to the facts involving Dr. Woollam, there were sufficient similarities to persuade the Committee that the proposed penalty was within the range of suitable penalties for similar misconduct.

It was submitted by College counsel, and not disputed by counsel for Dr. Woollam, that the actions involved masturbation of the patient, and therefore revocation of Dr. Woollam's certificate of registration was mandatory pursuant to section 51 (5) of the Code. The Committee does not consider it necessary to decide whether the acts in question constitute masturbation of the patient. The Committee accepted the joint submission that this was a case for revocation of the member's certificate of registration.

In assessing the appropriateness of the penalty, the Committee assessed the aggravating and mitigating factors. This was sexual misconduct which was intentional and carried out under the guise of a medical examination. The victim was considerably younger than Dr. Woollam, had a long-term trusting relationship with him, and consequently, was in an extremely vulnerable position. The impact of Dr. Woollam's actions on her was significant. She described in her victim impact statement the profound loss of trust in physicians for both herself and her family, the impact on her professional activities and on her relationships with men, including those who she had previously trusted implicitly.

Notwithstanding the seriousness of the actions of Dr. Woollam, the Committee is aware that the action constituted a single act of professional misconduct by a physician with no previous record with the College. In addition, Dr. Woollam, by not contesting the allegations, saved the complainant from having to testify again before the Discipline Committee, and saved the College the expense of a contested hearing.

The proposed penalty met the principles that are applied to penalty decisions. Revocation of the physician's certificate of registration serves the purpose of both protecting the public and maintaining the public's confidence in the profession and its ability to govern itself. It should also act as a significant deterrent for the profession in general. The reprimand expresses the profound abhorrence of the profession for such actions which undermine the trust that patients must have in their physician, including when they are undergoing intimate examinations. The provision of funding for therapy allows for a limited degree of restitution to be made by Dr. Woollam if the complainant requires therapy. Finally, Dr. Woollam's absence from practice allows him a period for potential rehabilitation.

The Committee finds that this is an appropriate case for it to exercise its discretion to award costs to the College in the amount of \$4,460.00 as per the tariff for one day of hearing.

ORDER

Therefore, the Committee ordered and directed that:

1. The Registrar revoke Dr. Woollam's certificate of registration, effective immediately;
2. Dr. Woollam attend before the panel to be reprimanded;
3. Dr. Woollam 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 May 5, 2014, in the amount of \$16,060.00

4. Dr. Woollam pay to the College costs in the amount of \$4,460 within ninety (90) days of the date of this Order.

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