

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Jonathan Caro, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the name of the complainant/patient or any information that could disclose the identity of the name of the complainant/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.

**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 Professional 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. JONATHAN CARO

PANEL MEMBERS:

P. BEECHAM (CHAIR)
DR. J. MANDEL
DR. O. KOFMAN
DR. M. DAVIE
J. ASHMAN

Hearing date:

June 7, 2005

Decision/ Release Date:

June 7, 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 June 7, 2005. At the conclusion of the hearing, the Committee stated its finding that the member committed professional misconduct and delivered its penalty order with written reasons to follow.

PUBLICATION BAN

On Tuesday, June 7, 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 broadcasting of the name of complainant/patient or any information that could tend to disclose the name or identity of such complainant. The Committee provided written reasons for this order.

ALLEGATION

The Notice of Hearing alleged that Dr. Jonathan Caro committed professional misconduct:

1. 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.

RESPONSE TO THE ALLEGATION

Dr. Caro admitted the allegation as set out in the Notice of Hearing.

EVIDENCE

The following Statement of Agreed Facts and Admission was filed as exhibit # 2 and presented to the Committee:

PART I – FACTS

1. Dr. Jonathan Caro is a 47-year-old psychiatrist who has a private psychiatric practice focussed on individual psychotherapy. He graduated from medical school (University of Western Ontario) in 1983 and was granted an independent practice certificate in Ontario in 1984. Dr. Caro obtained his F.R.C.P.C. in psychiatry in 1990. From 1990 until April 1999 his practice was located in his home. Thereafter, the office was relocated in Toronto.

2. In 1997, Patient A began to see Dr. Caro because he was experiencing marital problems, anxiety, claustrophobia and emotional distress. Dr. Caro and Patient A agreed to engage in twice weekly individual psychotherapy. The therapy continued until 2002. A copy of Dr. Caro's chart is attached as Exhibit 1 [to the Statement of Agreed Facts and Admission].

3. Dr. Caro is a member of the Orthodox Judaic community and dresses in a manner which identifies him as part of that group. At times in the therapy, Patient A questioned Dr. Caro about his religious affiliation and beliefs, which Dr. Caro explored with Patient A.

4. After Patient A expressed interest in Orthodox Judaism, Dr. Caro assisted him with his spiritual development. He introduced Patient A to his religious community by inviting Patient A to his home for Sabbath dinners, introduced him to members of and leaders in the community, and invited Patient A to attend his Orthodox Jewish wedding

ceremony. On these occasions, Dr. Caro introduced Patient A as a friend and not as a patient. When Patient A expressed interest in moving to the Orthodox Jewish community in a community north of Toronto Dr. Caro facilitated Patient A renting an apartment from Dr. Caro's brother.

5. In early 2001, during the course of therapy, Dr. Caro informed Patient A that he was a co-owner of a house with his brother in Toronto which he wanted to sell. Patient A expressed an interest in purchasing that house as an investment which he subsequently did after negotiations primarily conducted with Dr. Caro's brother. Patient A signed a conditional agreement for the purchase and sale of the property at Dr. Caro's office in early April of 2001. The house was subsequently sold to Patient A with the assistance of a lawyer acting for both parties. A copy of the agreement for the purchase and sale of the property is attached as Exhibit 2 [to the Statement of Agreed Facts and Admission].

6. Although Dr. Caro believed at the time of the sale of the house to Patient A that it was in his patient's interest, he later learned otherwise. Patient A found he could not manage the financial burden of the home, incurred new debt and experienced severe stress. Dr. Caro arranged with the assistance of legal counsel for the re-purchase of the house from Patient A by his brother and after negotiation, the house was re-purchased by Dr. Caro's brother in the fall of 2003, with no financial loss to Patient A. After this, Patient A advised the College that the financial aspects of the sale of the property had been resolved to his satisfaction. The letter from Patient A to the College attesting to this, dated October , 2003, is attached as Exhibit 3 [to the Statement of Agreed Facts and Admission].

PART II – ADMISSION

7. Dr. Caro admits that the conduct set out above constitutes professional misconduct under paragraph 1(1)33 of Ontario Regulation 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 the facts set out in the Statement of Agreed Facts.

Having regard to these facts and Dr. Caro's admission, the Committee found that Dr. Caro 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.

DECISION AND REASONS ON PENALTY AND COSTS

Counsel for the College and counsel for Dr. Caro made a joint submission on penalty and costs.

It was proposed in the joint submission that a penalty of two months suspension be imposed on Dr. Caro's certificate of registration to begin August 1, 2005 with an additional one month starting January 1, 2006, which shall be suspended if Dr. Caro completes, at his own expense, the College Ethics and Boundaries courses by December 30, 2005. It was also proposed that Dr. Caro should pay costs of \$2,500.00

The Committee considered, in accepting the appropriateness of the proposed penalty, that Dr. Caro crossed professional boundaries when he encouraged involvement of the patient in his family and community activities outside the doctor-patient relationship. The patient was a vulnerable individual with serious emotional problems who had come to Dr. Caro for psychotherapy. As a psychiatrist, Dr. Caro should have been well aware of the power imbalance between doctor and patient and the so-called slippery slope of boundary violations. In one of the cases brought to the attention of the Committee, another panel expressed its concern about such conduct in the following way:

“ ...Many therapists relax their mental confines of the therapeutic frame and assume more of the attitude that “anything goes” when they decided to shift from expressive to supportive tactics. Self-disclosure is often one of the first boundaries to go on and soon the therapist is involved in an informal, friendly style of interaction that may be perilously close to extra therapeutic relationships that do not have treatment goals associated with them...The therapist then develops a false sense of security that leads to a progressive slide down the slippery slope...” [CPSO and Bergstrom, at pp 6-7].

With respect to the sale of the property to the patient, there was a clear conflict of interest for Dr. Caro, as he stood to gain from the sale even though there was no suggestion that the sale was other than at fair market value. As well, the patient was not represented in the legal transaction by independent legal counsel and the signing of the legal documents took place in Dr. Caro’s own office. The power imbalance inherent in the physician/patient relationship does not appear to have been recognized by Dr. Caro. It was a clear violation of professional boundaries for Dr. Caro to involve his patient in this property transaction.

Counsel did ask the Committee to consider two mitigating factors. Firstly, Dr Caro reversed the sale of the property, with no financial loss to the patient, when he became aware of the impact of the financial burden on the patient’s well being. Secondly, Dr Caro was entirely cooperative with the disciplinary process and accepted responsibility for his misconduct. This demonstrated a degree of insight on his part into the harm that may be caused by the crossing of professional boundaries with patients.

Counsel cited four previous cases involving boundary violations, none of which were exactly the same as this case, but they served to illustrate that the proposed penalty was a fair resolution. The Committee concluded that the penalty will serve as both a specific and general deterrent against future violation of professional boundaries and will protect the public against such transgressions.

ORDER

Therefore, the Discipline Committee ordered and directed that:

1. The Registrar suspend Dr. Caro's certificate of registration for a period of two months commencing on August 1, 2005;
2. The Registrar suspend Dr. Caro's certificate of registration for one additional month, to commence on January 1, 2006, which shall be suspended if Dr. Caro successfully completes, at his own expense, the College's Ethics Course and the College's Boundaries Course and provides proof thereof to the College by December 30, 2005; and
3. That Dr. Caro pay to the College \$2,500.00 in costs.