

Indexed as: Pollock (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) 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. DANIEL CHARLES POLLOCK

PANEL MEMBERS:

R. SANDERS (CHAIR)
DR. O. KOFMAN
DR. M. GABEL
J. DHAWAN

Hearing Dates:

June 12, 2003

Decision/Release Date:

June 12, 2003

DECISION AND REASONS FOR DECISION

The Discipline Committee of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on June 12, 2003. At the conclusion of the hearing, the Committee delivered a written finding that the member committed an act of professional misconduct and its penalty order with written reasons to follow.

ALLEGATIONS

The Notice of Hearing alleged that Dr. Daniel Charles Pollock has committed an act of professional misconduct:

1. under paragraph 1(1)33 of Ontario Regulation 856/93 of 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; and
2. under paragraph 1(1)21 of O. Reg. 856/93, in that he charged a fee that was excessive in relation to the service performed.

RESPONSE TO ALLEGATIONS

Counsel for the College withdrew allegation 2 at the outset of the hearing. As set out in the Statement of Facts, Admission and Consent Disposition, Dr. Pollock admitted to allegation 1.

EVIDENCE

The following Statement of Facts, Admission and Consent Disposition dated June 12, 2003 was filed as an exhibit and presented to the Committee:

FACTS

1. Dr. Daniel Charles Pollock is a psychiatrist practising in the City of Toronto who has held a certificate of registration authorizing independent practice since the 18th of June, 1971.

2. He became a certificant of the Royal College of Physicians and Surgeons of Canada in 1974.
3. In addition to carrying out a hospital practice, Dr. Pollock carries on a private practice of psychotherapy in Toronto.
4. Patient A was a patient of Dr. Pollock's from October 29, 1998 until April 9, 1999.
5. In November 1998, Dr. Pollock advised Patient A that he would be charging him \$75.00 per hour for each appointment.
6. Patient A saw Dr. Pollock two times per week from November 1998 to February 1999 and once a week until March 1999. Patient A paid Dr. Pollock \$75.00 per appointment. Copies of the invoices are attached at Tab 1 [to the Statement of Facts].
7. During this time, Dr. Pollock was also billing the Ontario Health Insurance Plan for Patient's A's appointments. A copy of the OHIP Claims History in respect of Dr. Pollock's care and treatment of Patient A is attached at Tab 2 [to the Statement of Facts].
8. Patient B first saw Dr. Pollock at North York General Hospital on January 18, 2000.
9. After an appointment on February 2, 2000, Dr. Pollock advised Patient B that future appointments would be taking place at his office and not at the hospital.
10. Prior to or at Patient B's first appointment at Dr. Pollock's office, Dr. Pollock advised him that he would be required to pay \$80.00 per visit. At the first office

- appointment when Patient B explained his financial situation, Dr. Pollock stated that he would only bill him \$50.00 per visit, with the balance due once Patient B got back on his feet. Attached at Tab 3 [to the Statement of Facts] are copies of the invoices.
11. Attached at Tab 4 [to the Statement of Facts] are copies of the OHIP Claims History in respect of Dr. Pollock's care and treatment of Patient B.
 12. That is, Dr. Pollock's billing of these two patients took place in the following manner:
 - (i) a fee was charged to the patients for their regular appointments with Dr. Pollock, in addition to what Dr. Pollock billed to the Ontario Health Insurance Plan;
 - (ii) the patient had not agreed in writing to pay Dr. Pollock for "uninsured services";
 - (iii) uninsured services, or the services for which payment was being requested, were not itemized for the patients;
 - (iv) the patients were not given the option of paying separately for uninsured services as such services were provided on a case by case basis; and
 - (v) the uninsured services actually performed bore no relation to the fees charged.
 13. Further, prior to the date of the Notice of Hearing in this matter, Dr. Pollock billed a significant percentage of his other private psychotherapy patients a fee for their regular appointments with Dr. Pollock, above what Dr. Pollock billed to the Ontario Health Insurance Plan. In some cases, the patients had not signed an agreement to pay Dr. Pollock for "uninsured services", and the uninsured services, or the services for which payment was being requested, were not itemized for the patients. In those cases where Dr. Pollock billed for uninsured services, the payments were not for a minimum period of three months, as required by the CPSO policy on block fees.

14. The manner in which Dr. Pollock bills patients, set out above, contravenes the CPSO policy on block billing, a copy of which is attached at Tab 5 [to the Statement of Facts].
15. Dr. Pollock repaid Patient A \$1,725.00, the amounts paid for “uninsured services” when Patient A complained to the College.

ADMISSION

16. On the basis of the facts agreed to above, Dr. Pollock admits the allegations contained in paragraph 1 of the Notice of Hearing, that is professional misconduct:

under paragraph 1(1)33 of Ontario Regulation 856/93 of 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.

FINDINGS AND DECISION

The Committee accepted as true all of the facts set out in the Statement of Facts, Admission and Consent Disposition. Having regard to these facts and Dr. Pollock’s admission, the Committee made the finding that Dr. Pollock committed professional misconduct under paragraph 1(1)33 of Ontario Regulation 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.

PENALTY AND REASONS FOR PENALTY

Counsel for the College and counsel for Dr. Pollock made a joint submission regarding penalty as set out in paragraph 17 of the Statement of Facts, Admission and Consent Disposition:

17. On the basis of all of the above, the parties agree that the penalty will consist of the following:
- (i) Dr. Pollock will attend before the Discipline Committee to be reprimanded;
 - (ii) Dr. Pollock's certificate of registration be suspended for a period of three months commencing on July 1, 2003;
 - (iii) one month of this suspension will be suspended on the condition that Dr. Pollock:
 - i. repays to Patient B \$950.00, being monies Patient B paid to Dr. Pollock for uninsured services;
 - ii. pay costs to the College in the amount of \$2,500.00; and
 - iii. Dr. Pollock, through his counsel, will provide the College with the uninsured services contract he is using and the College will either agree that it complies with the policy of uninsured services or indicate how the contract needs to be amended to comply with the College policy. Dr. Pollock will then amend his contract as suggested; and
 - (iv) the results of this proceeding will be included in the register.

Counsel for Dr. Pollock presented the following mitigating circumstances in support of the joint submission on penalty:

- Dr. Pollock had no prior record with the College.
- Dr. Pollock was a respected member of the specialty of psychiatry.
- By admitting his conduct, Dr. Pollock saved the College the cost and time associated with a full hearing.
- Dr. Pollock was open and honest with the College about his billing practices and cooperated with the College.
- Dr. Pollock tried to comply with certain aspects of College policy.
- Dr. Pollock accepted his responsibility and now bills in accordance with College policy.

- Dr. Pollock has agreed to make financial restitution to the two patients (complainants). One of those patients has already been repaid.
- Dr. Pollock has accepted his professional responsibility and is making arrangements for the transfer of his patients during the period of suspension.

The Committee considered and took into account the above mitigating factors relative to penalty.

The Committee accepted the joint submission as an appropriate penalty in this case. Regarding protection of the public, the jointly proposed penalty ensures that future patients of Dr. Pollock will be charged for uninsured services in accordance with the College's policy. The jointly proposed penalty also sends a message to the public and the profession that Dr. Pollock's conduct was not acceptable and it will serve to deter further such conduct by Dr. Pollock and other members of the profession.

ORDER

The Discipline Committee therefore ordered and directed that:

1. Dr. Pollock will attend before the Discipline Committee to be reprimanded;
2. The Registrar shall suspend Dr. Pollock's certificate of registration for a period of three months commencing on July 1, 2003;
3. One month of this suspension shall be suspended on the condition that Dr. Pollock:
 - i. repay to Patient B \$950.00, being monies Patient B paid to Dr. Pollock for uninsured services;
 - ii. pay costs to the College in the amount of \$2,500.00; and
 - iii. Dr. Pollock, through his counsel, will provide the College with the uninsured services contract he is using and the College will either agree that it complies with the policy about block fees for uninsured services or indicate how the contract needs to be

amended to comply with the College policy. Dr. Pollock will then amend his contract as suggested; and

4. The results of this proceeding will be included in the register.

Following the conclusion of the hearing, Dr. Pollock waived his right to appeal under subsection 70(1) of the Code and the panel administered the reprimand.