

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Howard Douglas Taynen, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the name of the complainant or any information that would identify the complainant 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 such orders, reads:

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: Taynen (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 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. HOWARD DOUGLAS TAYNEN

PANEL MEMBERS:

**DR. L. THURLING (CHAIR)
N. CHUMMAR
DR. M. DAVIE
DR. O. KOFMAN**

Hearing Date: June 24, 2008
Decision/Release Date: June 24, 2008
Release of Written Reasons Date: August 15, 2008

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 June 24, 2008. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty order with written reasons to follow.

THE ALLEGATIONS

The Notice of Hearing alleged that Dr. Taynen committed an act of professional misconduct:

1. under clause 51(1)(b.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, in that he sexually abused a patient;
2. under paragraph 1(1)2 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”), in that he has failed to maintain the standard of practice of the profession; and
3. under paragraph 1(1)33 of 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.

The Notice of Hearing also alleged that Dr. Taynen is incompetent as defined by subsection 52(1), 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 practice should be restricted.

RESPONSE TO THE ALLEGATIONS

Dr. Taynen admitted to the second allegation, as set out in the Notice of Hearing, that he failed to maintain the standard of practice of the profession. The College withdrew

allegations 1 and 3 as set out in the Notice of Hearing as well as the allegation of incompetence.

FACTS AND EVIDENCE

The following facts as set out in an Agreed Statement of Facts and Admission that was filed as an exhibit and presented to the Committee:

PART I – FACTS

Background

1. Dr. Howard Douglas Taynen (“Dr. Taynen”) is a 61-year-old member of the College of Physicians and Surgeons of Ontario (the “College”) who received a certificate of registration authorizing independent practice in Ontario in 1973. He graduated from Queen’s University medical school in 1973 and received his specialist’s designation in psychiatry in 1981.

2. Dr. Taynen began his private practice in psychiatry in 1984. He currently practises in Ontario and has privileges at a hospital.

The Complaint

3. Dr. Taynen first saw the complainant, Patient A, in December 2003, on referral from her former psychiatrist. Between December 2003 and April 2006 Dr. Taynen saw Patient A regularly, usually once or twice a week. A copy of the OHIP printout for Dr. Taynen’s treatment of Patient A is attached at Tab 1 [to the Agreed Statement of Facts and Admission]. A transcribed copy of Dr. Taynen’s complete medical chart for Patient A is attached at Tab 2 [to the Agreed Statement of Facts and Admission].

4. Dr. Taynen shared several personal stories with Patient A through the course of her therapy with him. Patient A encouraged Dr. Taynen to continue to share with her as she felt his stories were instructive for her in her daily experiences. Dr. Taynen took Patient A’s feedback as a positive sign to continue to reveal some personal information to Patient A.

5. In approximately November of 2004, Patient A disclosed to Dr. Taynen that her marriage was in difficulty and she was feeling very vulnerable.

6. During a session in January of 2006, Patient A told Dr. Taynen about an erotic dream involving him. In the beginning of February 2006 Patient A gave Dr. Taynen a sealed letter in which she commented on ripping off his clothes. Dr. Taynen told Patient A that he found her attractive and in other circumstances he could enjoy a sexual relationship with her but that it must remain as a fantasy between them. In mid-February, Patient A gave Dr. Taynen a semi-nude photograph of herself which he placed into her chart.

The College's Expert Evidence

7. Dr. Z was retained by the College to provide an expert opinion regarding the care provided to Patient A by Dr. Taynen. He reviewed Patient A's chart, and concluded that Dr. Taynen fell below the standard of care expected of a psychiatrist in his care and treatment of Patient A. He also concluded that Dr. Taynen demonstrated a lack of knowledge and judgement in his decisions about his treatment for Patient A. He noted that Patient A was a very challenging patient and that Dr. Taynen may have skills as a psychotherapist, but with this patient more and different treatment was required. A copy of Dr. Z's report dated February 1, 2007 is attached at Tab 3 [to the Agreed Statement of Facts and Admission].

8. Dr. Z reached the following conclusions and observations regarding Dr. Taynen's care of Patient A:

(a) Selection of Treatment

- Dr. Taynen's decision to engage in psychodynamic psychotherapy with a patient demonstrating frequent mood changes and self-destructive behaviour does not meet the standard because this form of treatment is too stressful and not therapeutic for this type of patient;
- Dr. Taynen failed to meet the standard of care in persisting with this form of treatment even after signals which should have alerted him to its failure.

(b) Formal Consultation

- Dr. Taynen’s failure to formally consult with an experienced psychotherapist regarding his management of Patient A did not meet the standard of the profession.

(c) Management of Boundaries

- Dr. Taynen made serious errors and failed to meet the standard of the profession in his management of boundaries with Patient A when he disclosed personal information to her during the therapy. In particular, Dr. Taynen’s decision to tell Patient A that he found her attractive and that in other circumstances he would enjoy a sexual relationship with her, but that this would have to remain a fantasy between them, constituted a “significant boundary violation” that “only serves to foster eroticization of their relationship”. In addition, Dr. Z concluded that Dr. Taynen failed to maintain appropriate boundaries when he accepted a semi-nude photograph of Patient A and met with her in a coffee shop at the end of their therapeutic relationship.

(d) Assuming all Aspects of Patient A’s Care

- Dr. Taynen erred in assuming all aspects of Patient A’s care, including the prescribing of medications, which had been previously managed well by Patient A’s former psychiatrist.

9. Dr. Taynen agrees that:

- As a male therapist, he erred in choosing to pursue insight work with a female patient with a tumultuous history that included frequent mood dysregulation and inappropriate and impulsive sexual behaviour;
- A formal consultation with a more experienced psychotherapist or female therapist would have been valuable and appropriate in the management of Patient A’s care;
- He should not have engaged in self-disclosure with Patient A, given her history of frequent mood dysregulation and inappropriate sexual behaviour;

- He made a number of statements during the course of his treatment of Patient A that constituted boundary crossings and he now realizes that his self-disclosure contributed to fostering eroticization of their relationship;
- He erred in meeting with Patient A at a coffee shop, but did so in an effort to ensure she had some sort of support as she was at that time without therapeutic help; and
- It would have been more appropriate for Patient A's former psychiatrist to have continued to prescribe for her and for Dr. Taynen to collaborate with him on any changes to be made to the medications. However, he states that at the time he agreed to assume all aspects of her care he was unaware of the extent of her personality problems and the difficulties experienced by her former psychiatrist in working with her and that he agreed with Patient A's request in this context.

PART II – ADMISSION

10. Dr. Taynen admits the facts in paragraphs 1 to 9 above and admits that his care of Patient A constituted professional misconduct under paragraph 1(1)2 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* in that he failed to maintain the standard of practice of the profession.

FINDING

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts and Admission. Having regard to these facts, the Committee accepted Dr. Taynen's admission and found that he committed an act of professional misconduct under paragraph 1(1)2 of Ontario Regulation 856/93, in that he failed to maintain the standard of practice of the profession.

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 proposed order included a recorded reprimand, a one month suspension suspended provided that Dr. Taynen attend the College approved

courses on boundary issues, ethics, and dialectical behaviour therapy, the imposition of terms and conditions on Dr. Taynen's certificate of registration prohibiting him from accepting and treating patients with borderline personality disorder and requiring him to undergo a comprehensive practise assessment at his own cost. The obligation to pay \$3650.00 in costs was also included in the proposed order.

The Committee is mindful of the fact that a joint submission made by adversarial parties should be accepted by the panel unless to do so would be contrary to the public interest or would bring the administration of justice into disrepute. The proposed order meets the public interest objective and was accepted by the Committee.

The Committee was greatly concerned that Dr. Taynen failed to provide suitable care to Patient A. As treatment continued he failed to heed the warning signs of boundary issues with this most vulnerable patient with borderline personality disorder. The Committee was dismayed that a specialist of Dr. Taynen's tenure did not maintain appropriate boundaries and continued with a course of therapy which was clearly not helpful. The Committee accepted the expert opinion that this was a most complicated and difficult case to treat and that, even in ideal circumstances, only modest success would be expected. However, the Committee notes that there was collegial assistance available to Dr. Taynen, through the referring and admitting psychiatrist, over the course of therapy which Dr. Taynen ignored by assuming all treating responsibilities for Patient A.

The Committee considered Dr. Taynen's cooperation with the College in the hearing process, by way of an early admission of misconduct and the speedy attainment of a joint submission, to be a mitigating factor.

The proposed order serves to protect the public, and deter the member from repeating his behaviour. The terms, conditions and limitations placed upon Dr. Taynen's certificate of registration prohibiting treatment of Borderline Personality Disorder patients and requiring a thorough practice assessment provided further protection to the public. The order also serves to remediate Dr. Taynen's practice by requiring completion of the College boundaries, ethics and Centre for Addiction and Mental Health diagnostic

courses. The order sends a strong message to the membership at large that the College will not tolerate professional misconduct of this nature.

ORDER.

The Committee ordered and directed that:

1. Dr. Taynen appear before the panel to be reprimanded, with the fact of the reprimand to be recorded on the register.
2. The Registrar suspend Dr. Taynen's certificate of registration for a period of one month, to commence on July 1, 2008.
3. The Registrar suspend Dr. Taynen's certificate of registration for an additional period of one month, to commence February 1, 2009, all of which will be suspended if Dr. Taynen attends the following courses and provides proof thereof to the College prior to January 12, 2009:
 - a) The College course "Understanding Boundary Issues and Managing the Risks Inherent in the Doctor-Patient Relationship";
 - b) A College-approved ethics course; and
 - c) Part A of the course offered by the Centre for Addiction and Mental Health and run by members of the Borderline Personality Disorder Clinic entitled "Dialectical Behaviour Therapy".
4. That the following terms, conditions and limitations be imposed on Dr. Taynen's certificate of registration:
 - a) Dr. Taynen shall not accept for treatment patients who have been identified as or diagnosed with Borderline Personality Disorder. If Dr. Taynen learns after commencing treatment with a patient that he or she has Borderline Personality Disorder he shall immediately cease treatment of the patient and shall refer such patient to another psychiatrist; and

- b) Within 30 days of the date of this Order, Dr. Taynen will contact the College for the purpose of setting up a comprehensive practice assessment, which assessment he shall undergo at his own expense, and he will co-operate fully with the practice assessment and will abide by any recommendations flowing therefrom.
5. Dr. Taynen to pay to the College costs in the amount of \$3,650.00 within 60 days of the date of this Order.
 6. The results of this proceeding to be included in the register.

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