

Indexed as: McHugh (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
to the *Regulated Health Professions Act*, 1991,
S.O. 1991, c.18, as amended.

BETWEEN:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. SEAN MICHAEL McHUGH

PANEL MEMBERS: DR. A. KENSHOLE (Chair)
DR. Y deBUDA
D. ANDERSON
P. BEECHAM

HEARING DATE: July 28, 2000

DECISION RELEASED: August 8, 2000

DECISION AND REASONS FOR DECISION

This matter came on for hearing at the College of Physicians and Surgeons of Ontario at Toronto on Friday, July 28, 2000.

ALLEGATIONS

The College proceeded with the allegation in the Notice of Hearing that Dr. Sean Michael McHugh committed an act of professional misconduct as defined in 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 engaged in sexual abuse of a patient.

Dr. McHugh pleaded guilty to this allegation of professional misconduct.

FACTS

The facts were not in dispute and were before the Committee by way of a Statement of Agreed Facts, which provided as follows:

1. The Complainant (“the patient”) was referred to Dr. Sean Michael McHugh (“Dr. McHugh”), a psychiatrist, by his family physician. The patient commenced seeing Dr. McHugh in September 1996. The patient saw Dr. McHugh for approximately 72 weeks on a weekly basis, until February 1998.
2. The patient’s complaints were of long-standing anxiety disorder for which he had previously received medication. The therapy with Dr. McHugh was largely cognitive-behavioural and addressed how the patient approached his work and his relationships with other people and dealt with his specific symptoms of anxiety and low self-esteem. Part of the patient’s therapy sessions with Dr. McHugh centered on the patient’s problems in trusting men in intimate relationships. The patient’s therapy also focused in part on trying to facilitate the patient’s abilities to break down barriers with people, and to overcome his vulnerabilities.

3. As the end of a session in January of 1998, the patient told Dr. McHugh that he had fallen in love with him.
4. In February 1998, Dr. McHugh attended a Theatre Festival and saw five short plays including one authored by the patient. After the play, Dr. McHugh attended the opening night festivities at the theatre. At these festivities, after conversing and complimenting the patient on the play, Dr. McHugh gave the patient a ride home.
5. Dr. McHugh attended a second Theatre Festival shortly thereafter. After that attendance, the patient cancelled his next scheduled appointment with Dr. McHugh. Dr. McHugh called the patient and suggested that they discuss what had transpired over dinner. They agreed to meet at a restaurant.
6. At that meeting, the patient and Dr. McHugh acknowledged positive feelings of attraction, each for the other. Dr. McHugh told the patient that they could not be involved in a personal relationship and continue their professional relationship, and they agreed that the patient would not continue to attend for therapy.
7. The patient's last therapy session with Dr. McHugh occurred in February 1998.
8. Dr. McHugh and the patient commenced an emotional and sexual relationship, which lasted for approximately five weeks and included a trip together to another city.
9. The relationship ended at the instigation of Dr. McHugh. In late March or early April 1998, Dr. McHugh told the patient that he did not love him anymore. The patient expressed difficulty dealing with the break-up.
10. Dr. McHugh took no steps at any time to transfer the care of the patient to any other psychiatrist.
11. The patient was devastated by the break-up of the relationship.

The issue of what constitutes sexual abuse is defined in Section 1(3) of the *Health Professions Procedural Code* as follows:

(3) In this *Code*,

“sexual abuse of a patient by a member means,

- (a) sexual intercourse or other forms of physical sexual relations between the member and the patient,

- (b) touching, of a sexual nature, of the patient by the member,
or

- (c) behaviour or remarks of a sexual nature by the member towards the patient.”

FINDING

The Committee finds that the conduct of Dr. McHugh constitutes sexual abuse within the meaning of the *Code*, and therefore accepts his plea and finds him guilty of professional misconduct as alleged in paragraph 1 in the Notice of Hearing.

PENALTY SUBMISSIONS AND ORDER

Where there has been a finding of sexual abuse, the legislation directs that the mandatory penalty of a revocation be imposed together with a reprimand. The College through its counsel asked for both, and as well requested an order under Section 51(2) of the *Code* that Dr. McHugh be directed to reimburse the College for funding provided for his patient under the program required under Section 85.7. This is a program established by the College to provide funding for therapy and counselling for persons who, while patients, were sexually abused by physicians. Dr. McHugh, through his counsel, accepted that the mandatory penalty was called for in the circumstances, and further did not oppose the Colleges request for funding for therapy for the patient.

The injury that is caused when a psychiatrist sexually abuses a patient was eloquently expressed by the patient in this case in a Witness Impact Statement that the Committee received, as follows:

“Dear Panel Members,

I have been asked to write a victim impact statement regarding my sexual abuse case against Dr. Sean McHugh. As you can perhaps imagine, this is not an easy task.

When I started seeing Dr. McHugh, I was in a highly vulnerable, susceptible position. I was not capable of controlling my emotions, and Sean presented himself as my on ray of hope. Gradually, I began to believe that I was in love with Sean. My situation was not unique – after all, patients need to trust and even admire their doctors in order for the doctor to do his work. But that bond can sometimes be very powerful and very confusing.

Instead of using my trust and admiration to bring about healing, Sean preyed on my weakness. He seduced me emotionally and sexually, made me believe that my misplaced infatuation was reciprocated - that, in fact, I was helping *him* – and then, once the fever of the affair passed, cut me out of his life quickly, coldly, and with little explanation.

The impact was devastating. Betrayal and yearning, anger and loss all mixed together and left me in a deep depression. I seriously contemplated suicide. I was volatile, unstable, and frequently irrational. I trust no one, and became hostile to my closest friends. I was unable to work effectively, and my career suffered as a direct result.

Months later, when I began to come out of the shock, I found myself unable and unwilling to meet new people, socially or romantically – everyone was another potential Dr. McHugh, waiting to gain my confidence and then betray me.

I sought therapy and slowly regained my sense of self. I learned that the feelings of shame and humiliation I was experiencing were actually Dr. McHugh’s problems. But by refusing to take responsibility for his actions (while simultaneously requesting that I be the keeper of his secrets) Sean had burdened me with his guilt. By speaking out, I hope to return the guilt and shame back to where it belongs.

In conclusion, I am proud of myself for seeing this process to completion, whatever the final result. It has not been an easy process.

I am no longer bitter towards Sean personally, but remain angry with what he represents. Dr. McHugh is a prime example of an “old school” doctor – someone who sees himself as outside of and above every day society, accountable to no one.

By tainting my relationship with the medical profession and creating a deep mistrust in me of all doctors, Dr. McHugh has robbed me of my right to effective medical care. Of the many impacts I have experienced from Dr. McHugh's abuse, this one will prove the most lasting and perhaps the most harmful."

Dr. McHugh did file a Statement in which he apologized to his patient for any distress that his personal relationship may have caused. He also expressed his apology to his medical colleagues and to the College of Physicians and Surgeons of Ontario for the behaviour that brought him before the Discipline Committee. He also indicated that he was suffering from a significant depressive illness at the time he became involved with the patient in a personal relationship. He acknowledged that his conduct was unacceptable. Although sympathetic to the emotional situation of the physician, the Discipline Committee wishes expressly to state that it does not constitute an excuse for such behaviour that is damaging to members of the public and abhorrent to the profession.

The Committee makes the following order as to penalty:

1. The certificate of registration of Dr. Sean Michael McHugh is hereby revoked;
2. Dr. McHugh is directed to appear before the panel to be reprimanded;
3. Dr. McHugh is required to reimburse the College for funding provided for his patient under the program required under Section 85.7 of the Health Professions Procedural Code.

Dr. McHugh executed a waiver of his right of appeal and the reprimand was administered.