Indexed as: **Leibl (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. RAYMOND DANNY LEIBL

PANEL MEMBERS: DR. R. MACKENZIE (CHAIR)
DR. C. HILL
R. SANDERS
J. MARTEL

Hearing Dates: December 11-15, 2000
January 2-5, 2001
February 5-9, 2001
February 26-March 2, 2001
March 5-9, 2001
March 26-30, 2001
April 22, 2001

Decision/Released Date: June 22, 2001

PUBLICATION BAN

Decision and Reasons for Decision

This matter came on for hearing before the Discipline Committee at the College of Physicians and Surgeons at Toronto on December 11-15, 2000, January 2-5, February 5-9, February 26-March 2, March 5-9, March 26-30 and April 22, 2001.

The Allegations

The allegations were set out in the Notice of Hearing as follows:

It is alleged that Dr. Leibl is guilty of professional misconduct:

1. under paragraph 26.20 of O. Reg. 577/75, paragraph 27.21 of O. Reg. 448, R.R.O. 1980, paragraph 29.22 of O. Reg. 548 and clause 1(1)2 of O. Reg. 856/93 in that he failed to maintain the standard of practice of the profession;
2. under paragraph 26.25 of O. Reg 577/75, paragraph 27.26 of O. Reg. 448, R.R.O. 1980 and paragraph 29.27 of O. Reg. 548, R.R.O. 1990, in that he made improper use of the authority to prescribe or dispense a drug to a patient;
3. under clause 1(1)6 of O. Reg. 856/93, in that he prescribed and dispensed drugs to a patient for an improper purpose;
4. under paragraph 26.28 of O. Reg. 577/75, paragraph 27.29 of O. Reg. 448 R.R.O. 1980, paragraph 29.30 of O. Reg. 548, R.R.O. 1990, in that he engaged in sexual impropriety with patients;
5. 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, in that he sexually abused a patient;
6. under clause 1(1)3 of O. Reg. 856/93 in that he abused a patient verbally and physically;
7. under paragraph 27.3 of O. Reg. 448, in that he failed to maintain the records that are required to be kept respecting a member s patients;
8. under paragraph 29.17 of O. Reg. 548, R.R.O. 1990 and clause 1(1)16 of O. Reg. 856/93, in that he falsified a record in respect of the examination or treatment of a patient or relating to his practice;

9. under paragraph 29.28 of O. Reg. 548, R.R.O. 1990, in that he gave information concerning the condition of the patient named in Appendix B to this notice and professional services performed for her to a person other than the patient without her consent;under paragraph 26.08 of O. Reg. 577/75, paragraph 27.09 of O. Reg. 448, R.R.O. 1980, paragraph 29.10 of O. Reg. 548, R.R.O. 1990 and clause 1(1)21 of O. Reg. 856/93, in that he charged a fee that is excessive in relation to the services performed;

10. under paragraph 26.14 of O. Reg. 577/75, paragraph 27.15 of O. Reg. 448, R.R.O. 1980, paragraph 29.16 of O. Reg. 548, R.R.O. 1990 and clause 1(1)22 , in that he charged a fee for services not performed;

11. under paragraph 26.31 of O. Reg. 577/75, paragraph 27.32 of O. Reg. 448, R.R.O. 1980, paragraph 29.33 of O. Reg. 548, R.R.O. 1990, and clause 1(1)33 of O. Reg. 856/93, in that he engaged in conduct or an act or is guilty of an 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

12. under clause 1(1) 34 of O. Reg. 856/93 in that he engaged in conduct unbecoming a physician in relation to a patient.

It is also alleged that Dr. Leibl is incompetent, as defined in subsection 60(4) of the *Health Disciplines Act, 1974*, S.O. 1974, c. 47, subsection 60(4) of the *Health Disciplines Act*, R.S.O. 1980, c. 196 and subsection 61(4) of the *Health Disciplines Act*, R.S.O. 1990, c. H.4, in that he has displayed in his professional care of patients, a lack of knowledge, skill or judgment or disregard for the welfare of the patients, of a nature or to an extent that demonstrates that he is unfit to continue in practice, and as defined in section 52 of the Code in that his professional care of a patient, displayed a lack of knowledge, skill or judgment or disregard for the welfare of the patient, of a nature or to an extent that demonstrates that he is unfit to continue to practise or that his practice should be restricted.

PUBLICATION BAN

At the outset of the hearing prosecution counsel asked that an order under s. 47(1) be granted that no person would publish the identity of Complainant B, or any information that could disclose this complainant's identity.

An order under s. 45(3) was asked to be granted banning the publication or broadcast of the complainant's medical record contained in exhibit 2 (volume 1-15).

Also, a general order under s. 45(3) and 47(1), that the name and identifying information for any patient, including complainants, shall not be published or broadcast (excluding Ms. Elizabeth McKenna).

The Plea

Dr. Leibl pleaded not guilty to all allegations.

The Evidence

Complainant A (Elizabeth McKenna)

Elizabeth McKenna is a 53-year-old woman who was born in Glasgow, Scotland and emigrated to Canada at the age of five with her family to settle in Sault Ste. Marie, Ontario. She was the second of five siblings. Her father worked as a foreman in a steel plant and her mother was a homemaker who subsequently returned to work as a nursing assistant. Elizabeth McKenna was raised in a strictly religious family, observing Roman Catholic traditions and rituals. She was educated in Catholic girls' schools exclusively until the middle of Grade 13. She attended church and confession on a regular basis, sang in the church choir and was the church organist for a period of time. She was generally a good student and achieved good academic grades during elementary and high school.

1963-1967

At the age of 16, Elizabeth McKenna began to have doubts about her spiritual beliefs, bringing her into serious conflict with her father. She sought advice from a young parish priest, who provided her with emotional support and reassurance. In a very short period of time, their relationship developed into a personal friendship, which became a refuge for her from the stormy family interactions. Over time, the priest came to comfort Elizabeth McKenna physically whenever they met. Eventually, he began kissing her in what Elizabeth McKenna perceived as an overtly sexual manner. The priest justified his

actions to her on the basis that they would eventually be married once the Vatican approved changes to the rules of celibacy. She believed herself to be very much in love with the priest at this stage of her life, even though she felt very guilty about her "sinful" participation in such an illicit affair. She willingly complied with the priest's admonition not to disclose anything about their relationship to anyone.

During her Grade 13 academic year, Elizabeth McKenna was separated from the priest. She attended a private school in North Bay for the first half of the year, but became so lonely and depressed that she returned to SSM to complete her year at a public school there. By this time she had begun to overeat and had gained a great deal of weight. She became depressed and argued constantly with her parents. She managed to complete her final year in high school and arranged to go to Toronto in the fall of 1966 to begin university studies at St. Michael's College at the University of Toronto. Just prior to Elizabeth McKenna leaving SSM, the priest returned and they renewed their relationship with each other.

1967-1972

In Toronto, things went very badly for Elizabeth McKenna. She was desperately lonely and isolated and testified that she missed both the priest and her family. She became overwhelmed academically. As she continued to overeat, her weight ballooned dramatically, and she became increasingly depressed and socially reclusive. Ultimately, by the spring of 1967, her family doctor encouraged her to seek psychiatric help, at which point she was admitted to the Clarke Institute of Psychiatry. She remained there as an inpatient for over a month. During her stay in that institution, she underwent psychotherapy and psychological testing, and was discharged with a diagnosis of "Passive Aggressive Disorder" with "Adjustment reaction".

She left the Clarke Institute against medical advice in May of 1967 and returned to SSM with her parents. Within five days of returning home, she was admitted to SSM General Hospital under the care of a psychiatrist, Dr. A, who diagnosed her with Schizophrenia and initiated treatment with anti-psychotic medication. Shortly after discharge from this

hospital stay, she went to visit the priest at his rectory. On that occasion, the priest removed her blouse and bra and, while fondling her breasts, ejaculated in his pants. Elizabeth McKenna describes this as a devastating event in her life and that she left the rectory that night "changed forever". She felt bound by her agreement with the priest never to disclose the nature of their relationship, a commitment that was only reinforced by her own guilt and self-loathing.

Shortly thereafter, she was readmitted to SSM General Hospital. By this point, she was extremely depressed and had begun to perform acts of self-mutilation such as slashing her wrists, burning herself with cigarettes and scalding herself with hot water. She was treated with increasing doses of antipsychotic and antidepressant medication as well as electroconvulsive therapy (ECT). For the next four years, Elizabeth McKenna was in and out of hospitals for extended periods of time and underwent at least 60 ECT treatments. Between 1967 and 1973, Elizabeth McKenna accumulated a total of 653 days as an inpatient in psychiatric wards of four different hospitals. Whenever she was not in hospital, she continued the clandestine relationship with the priest. By now, the meetings between Elizabeth McKenna and the priest had evolved into purely sexual encounters in which she would provide gratification to him by means of manual or oral sex.

1972-1976

In 1972, Elizabeth McKenna made an attempt to resume her University education, completing one year at Algoma College and two more at Laurentian University. She continued to take high doses of anti-psychotic medication as well as minor tranquilizers and sleeping pills. Despite persevering with her scholastic activities, she remained depressed and socially isolated. Between 1972-1975, she returned home frequently where she received psychotherapy from Mr. A, a clinical social worker.

By 1975, Elizabeth McKenna found herself unable to continue at school and returned to SSM. She was finally able to disclose to Mr. A her dreaded secret about the sexual affair with the priest. Recognizing that her functional status was not improving, Mr. A recommended that she consider moving to Toronto in order to undertake an

unconventional form of treatment known as “Primal Therapy”. Feeling desperate, Elizabeth McKenna agreed. Prior to leaving for Toronto, she confronted the priest about his abusive behaviour and told him that she would not see him again. Elizabeth McKenna did not speak to nor did she see the priest again for the next seven years.

1976-1982

In April 1976, Elizabeth McKenna moved to Toronto and participated in an intensive, primal therapy treatment program over a two-week period. To her great disappointment, she found the treatment totally ineffectual, and the therapist recommended that she become involved in a more structured form of treatment. This therapist then referred her to Dr. Leibl.

Elizabeth McKenna had her first visit with Dr. Leibl in May of 1976. She then began attending regular group therapy at Dr. Leibl’s clinic. For the next several years the treatment routine consisted of 6 hours of group therapy on Monday night, 2 hours on each of Wednesday and Thursday evenings and a weekend “marathon” session once a month. In addition, Elizabeth McKenna met with Dr. Leibl approximately 4 to 6 hours each week for individual therapy sessions.

During her second session with Dr. Leibl, Elizabeth McKenna told him about the abusive sexual relationship with the priest and the fact that she had terminated the relationship prior to her move from SSM to Toronto. Elizabeth McKenna claims that Dr. Leibl’s response to this revelation was a flippant remark. As a result, she did not feel comfortable raising the issue in subsequent therapy sessions until many years later.

Both the group and individual sessions were conducted in a large room in Dr. Leibl’s house known as the “therapy room”. The floor of the room was covered with mattresses and throw cushions. During group sessions, patients would break out into smaller “work-groups”, which would be facilitated by “co-therapists”. The co-therapists consisted of one psychiatrist other than Dr. Leibl, social workers, lay therapists and sometimes patients themselves. Much of the therapy resolved around “re-parenting” in which patients

attempted to regress into behaviour or reminiscences of childhood, following which the therapist would react to that behaviour as a surrogate or "contract" parent. This often included physical comforting in the form of the therapist "cuddling" or "stroking" the patient, and usually culminated in the patient sucking from a baby's bottle while reclining in the arms of the therapist. Another technique frequently employed involved patients and therapists lying face to face on top of one another. This was always done fully clothed. Elizabeth McKenna was not entirely sure what the purpose of this exercise was, but offered that it may have been to simulate a sense of enclosure and consequent safety. Following the breakout sessions, the entire group would come together to interact with Dr. Leibl as the focal therapist.

As part of the therapy, patients would make "contracts" with the group and with Dr. Leibl. For example, a patient might make a contract in order to receive affection. A feature of the group sessions that Elizabeth McKenna described in some detail was the "corner contract". When Dr. Leibl was displeased with a patient, he would direct that individual to leave the group and stand immobile in a corner of the room until he was satisfied that the patient had sufficiently atoned for his/her unacceptable behaviour. According to Elizabeth McKenna, patients would often be kept in the corner, forbidden to speak or move for up to 2 or 3 hours. On one occasion, she recalled a male patient banished to the corner who requested to go to the bathroom, and Dr. Leibl instructed him to urinate in his pants. Once, when Elizabeth McKenna attempted to leave the group because she was angry with Dr. Leibl, he forcibly resisted her by placing her in a "hammerlock" and, with the assistance of several other patients, restrained her in this position in the "corner" for over two hours. Despite screaming for help repeatedly, she was not released until she had admitted her wrongdoing and apologized to Dr. Leibl. Elizabeth McKenna estimates that she was "sent to the corner" approximately 20 times during the period that she attended group therapy. On most of these occasions, she believes she was being punished for arguing with Dr. Leibl.

Elizabeth McKenna described Dr. Leibl as quick to anger and herself as prompt to respond. Profanity was part of the "culture" of the group environment as well as being

part of their joint interaction. He would often yell at her and she at him. He frequently insulted her, often in front of the other patients. In one of her most depressed periods, she recalls him rejecting her by saying, “Don’t get near me”.

The Committee heard an audiotape of an individual therapy session in 1978, during which Elizabeth McKenna was having an argument with Dr. Leibl, and began to simulate slapping herself on the cheeks. On the tape, Dr. Leibl was heard shouting at Elizabeth McKenna: “I command you to hit yourself…harder, harder…Now, draw blood!” Elizabeth McKenna claims that, at this point, Dr. Leibl backhanded her forcefully across the face, hard enough that she saw stars and subsequently came up in a bruise around her eye. She was very frightened by this experience because it occurred so unexpectedly and, from that point onward, she was always concerned he might hurt her again. The “slap” was clearly audible on the tape, followed by Elizabeth McKenna’s loud crying and Dr. Leibl’s subsequent attempts to comfort her. He is heard at this point saying “I love you…I won’t stand to see you hurt yourself.” Following this incident, Elizabeth McKenna maintains that Dr. Leibl continued to slap her in subsequent therapy sessions for the next couple of weeks. Elizabeth McKenna describes these slaps as varying from mild to “smarting”, but insufficient to sustain any significant injury.

During another argument with Dr. Leibl in a group session, Elizabeth McKenna stated that he conscripted some other patients to hold her down while he pinched her nose and covered her mouth so that she was unable to breathe. She found this very frightening. Dr. Leibl refused to stop until she agreed with his contention that he was “capable of controlling her behaviour”. Elizabeth McKenna recalls that he repeated this “technique” in many subsequent individual sessions to reinforce his control over her.

During their individual sessions, Elizabeth McKenna would attempt to act and talk like a baby or child, after which Dr. Leibl would attempt to “re-parent” her. He represented himself to her as “Mommy-Daddy Ray”. In the process he would have her suckle on his fingers, stroke her body and feed her with the baby bottle while she lay in his arms. Elizabeth McKenna did not interpret the touching or cuddling in these sessions as having

any sexual intent, rather she likened this to the sort of fondling a parent would instinctively impart to a child.

During the second year of their sessions, Dr. Leibl insisted on tying himself to Elizabeth McKenna by a five or six-foot rope attached to each of their wrists. He claimed that this aided her to experience “symbiosis”. During these incidents, Elizabeth McKenna would be unable to move away from Dr. Leibl without his permission. If she needed to go to the bathroom, she would have to wait for him to agree to let her go, then he would accompany her to the bathroom, waiting outside the door until she was finished. Once Elizabeth McKenna claimed that Dr. Leibl forced her to accompany him outside the clinic to pick up Chinese food while still attached by the rope, despite her protestations that this was humiliating.

Elizabeth McKenna frequently met Dr. Leibl in social settings outside of the clinic. He took her out to restaurants about twice a year and once took her to Niagara Falls to celebrate her birthday. He periodically came to her home to meet with her, particularly around special occasions such as birthdays, Christmas and Easter. He frequently gave her presents such as flowers, jewelry, and clothing or travel souvenirs. When she was employed, he would often phone her at work to change an appointment or just to exchange a casual “Hi, how are you?” He also frequently phoned her at home simply to “chat”. Dr. Leibl would often send Elizabeth McKenna cards to mark special occasions such as birthdays, special accomplishments or to “make up after a fight”. Often these cards were signed “Love, Mommy-Daddy Ray”. Elizabeth McKenna estimates that she received several hundred such cards over the 20-year period of their relationship. An exhibit reviewed by the panel contained a number of personal notes sent to Elizabeth McKenna by Dr. Leibl which were signed with variable endearments such as, “Loads of Love, Mommy-Daddy Ray”, “Kisses and Hugs, Love, Ray”, and “To a little girl who is very, very loved”. Another exhibit reviewed by the panel included a photo album containing several photographs of Elizabeth McKenna and Dr. Leibl embracing each other at various social functions.

In 1977, Dr. Leibl married one of the “co-therapists” in his clinic. Dr. Leibl confided in Elizabeth McKenna that his wife had expressed concern about the closeness of the relationship between himself and Elizabeth McKenna, to which Dr. Leibl had replied, “I love her (Elizabeth McKenna) and she will always be part of my life”. During their individual therapy sessions, Dr. Leibl disclosed to Elizabeth McKenna aspects of his sexual relationship with his wife, as well as “bragging” about his individual sexual appetite and prowess.

Over the twenty years of their relationship, Dr. Leibl frequently loaned money to Elizabeth McKenna, and twice co-signed bank loans for her in the amounts of $800 and $3000, respectively. In the early years of her treatment, Dr. Leibl billed above OHIP. When Elizabeth McKenna was unable to pay these amounts, he worked out a system where she could perform odd jobs around his house to “earn credits” against the monies owed. He often gave her money as gifts when she was “too poor to buy food”. On two separate occasions he gave her cheques for $1000 each. There were no conditions attached to these gifts. In 1991 he offered to pay her $800 per month in order for her not to go back to work and focus on her intensive therapy, which was taking up too much time to allow her to sustain employment. This arrangement continued for approximately two years, at which point he maintained that he could no longer afford to continue. In July of 1996, three months before terminating their relationship, he began providing her with $200/month to “help her get on her feet”.

Elizabeth McKenna admits that she developed an intense emotional dependency on Dr. Leibl. Whenever he went away on vacation, she felt panicky for fear he would not return. During these absences, Dr. Leibl would phone her on a regular basis. On several occasions when Dr. Leibl spent time at his cottage north of Toronto, he would arrange to have Elizabeth McKenna come up to Barrie by bus where he would meet her in his car. They would typically spend a couple of hours sitting and cuddling in his car and then she would return by bus to Toronto. Elizabeth McKenna does not portray the cuddling as sexual in nature, but similar to the acting out of the reparenting scenarios.

1982-1985

In 1982, Elizabeth McKenna's mother died and she returned to SSM for the funeral. Elizabeth McKenna met the priest at the church service and reestablished contact with him. Unfortunately, the abusive sexual relationship began again within a year from that date, when the priest came to Toronto on a business trip. From that time onwards, he would call her once or twice a year, whenever he came to Toronto. Although more disgusted than ever with her inability to stop the relationship, Elizabeth McKenna would inevitably agree to meet the priest in his hotel room, where she would indulge his sexual requests. This continued until March 1989, when she finally was able to terminate the relationship for good.

In May of 1983 Dr. Leibl encouraged Elizabeth McKenna to set herself up as a massage therapist and even arranged for the purchase and delivery to her apartment of a professional massage table. When she protested that she had no qualifications to practice therapeutic massage, Dr. Leibl created a phony licensing certificate for her on his computer purporting that she had completed training at a fictitious therapy institute.

1985-1989

By 1985, Elizabeth McKenna had stopped attending group therapy sessions and focused on individual work with Dr. Leibl. For the next 3 or 4 years, she met with him for approximately five hours per week. After ending all ties with the priest in 1989, Elizabeth McKenna finally disclosed the true nature of the abusive relationship to Dr. Leibl. At that point, Dr. Leibl concluded that Elizabeth McKenna was suffering from "Multiple Personality Disorder" (MPD). Dr. Leibl attempted to hypnotize her in order to identify her "alter" personalities. This was not successful, so Dr. Leibl suggested she participate in Sodium Amytal interviews in an effort to break down her defences.

1989-1992

These Amytal interviews began in the summer of 1989, occurring approximately four times a week and lasting for several hours each. Initially, Dr. Leibl administered the Amytal by intravenous injections. Often he gave her two or three separate injections over the course of each interview. Within a fairly short period of time, her normally accessible

veins became sclerosed, so Dr. Leibl began to inject her anywhere on her body where a venipuncture site could be identified. After 6 to 8 weeks, this practice had to be abandoned because no intravenous sites were available. She describes the typical Amytal session as follows: Within moments after the injection, she would become unconscious, awakening about ten minutes later, barely able to speak. She claims she was amnesic for virtually all the time she was under the effect of the medication. Afterwards, she felt disoriented and intoxicated. At the end of each session, she had to find her way home by public transit. Usually, she woke up the next day unable to remember how she got home. She fell a great deal during this period, injuring herself frequently.

When the iv route of administration was exhausted, Dr. Leibl switched her to oral Sodium Amytal and continued the sessions. He started the dose at 2800mg (14 x 200mg capsules), but this rendered her essentially comatose. So Dr. Leibl reduced the dose to 10 capsules. She describes feeling very intoxicated on this dose. By 1990, Dr. Leibl began to provide her with Amytal to take home with her as well. Typically, he would provide her with 100 capsules at a time. She received the capsules directly from Dr. Leibl in an envelope, and did not fill the prescriptions at a pharmacy. At the same time that she was taking the Amytal, she was also taking other medications that were being prescribed by Dr. Leibl. These she purchased at the pharmacy and included Ativan, Valium, Ritalin, Codeine and Tegretol. She does not recall any specific directions for taking any of these medications and tended simply to “throw them all down together”.

At some point during 1989, Dr. Leibl introduced alcohol to the sessions in conjunction with the Amytal to “further break down the defences”. Dr. Leibl explained to Elizabeth McKenna that he had consulted with a Witness C, a reputed specialist in the use of Sodium Amytal interviews, about combining alcohol with Amytal. Dr. Leibl assured Elizabeth McKenna that Witness C approved of this practice and, in fact, was going to monitor her case along with Dr. Leibl. Several years later, Elizabeth McKenna called Witness C and asked him if this was true. Witness C vehemently denied ever approving such a treatment or being aware of her case.

Elizabeth McKenna recalls telling Dr. Leibl that neither her father nor anyone else in her family ever abused her and, she believes that to this day. However, Dr. Leibl told Elizabeth McKenna that, during the Amytal sessions, she had "remembered" that her father had raped her both vaginally and anally during her childhood. Elizabeth McKenna did not know what to do with this information, but she had reached a point where she was completely dependent on Dr. Leibl and trusted him implicitly. Dr. Leibl insisted that she must cut off all ties to her father as part of her treatment for MPD. He suggested that Elizabeth McKenna place a fake obituary of herself in the newspaper so that her family would think she was dead. She was horrified at such a suggestion, and ultimately agreed to send her father a letter saying that she had unexpectedly decided to go to India, and did not know when she would be returning.

Dr. Leibl assisted her in drafting this letter which Elizabeth McKenna mailed to her father on May 3, 1989. After posting the letter, Dr. Leibl took Elizabeth McKenna to the banks of the Don River where he assisted her to perform a ritualistic "funeral" for her family. As part of the ceremony Elizabeth McKenna threw photographs of her family into the river and, after watching them float out of sight, she and Dr. Leibl ate unleavened bread and drank from a "chalice" to consecrate the act of saying her final good-byes. She remembers this as an emotionally devastating event. As a result, she did not have any contact with her family for four years until she was notified that her father was dying.

By this point in 1990, Elizabeth McKenna was attending on average 25 hours of therapy each week, in four to five individual sessions. Amytal/alcohol was used on every occasion. During these sessions, Dr. Leibl would dissolve the Amytal in glasses of Vodka, which Elizabeth McKenna would then drink through a straw. During lengthy sessions, she would often consume up to 20 oz of Vodka with unknown quantities of Amytal. At the end of each session, Dr. Leibl would typically ask her how much Amytal she wanted to take home with her and he would then dispense these to her in an envelope. Elizabeth McKenna estimates that through most of 1990 she was consuming up to 18 x 200mg capsules of Amytal a day in addition to what she was receiving during her therapy

sessions. It was her understanding that she required this medication to prevent "rebound anxiety" from the Amytal used during the interviews.

Elizabeth McKenna understands that Dr. Leibl taped the majority of her therapy sessions. He frequently gave her the tapes to take home with her, but she rarely listened to them because she was constantly intoxicated and spent virtually all her time outside of the sessions sleeping. The Committee heard one such tape, purportedly made of a session conducted in November 1989. Elizabeth McKenna claims to have no memory of this session. It was clear to the Committee that during this interview, Elizabeth McKenna's voice was very slurred and she certainly sounded very intoxicated. At one point Elizabeth McKenna is heard asking Dr. Leibl to lie on top of her. Dr. Leibl is heard to respond, "Good, sweetheart". The conversation continues as follows:
Elizabeth McKenna: "This is mad sex…Oh, God… Oh, Baby…I want you, baby *(moan).*"
Dr. Leibl: "Oh, God, I love it, Oh God…"
Elizabeth McKenna: "Just start putting your hand up my shirt…then take your leg *(inaudible)*…start kissing my face *(sound of kisses)*…wet ones *(sound of more kisses).*"
Several times during the interchange Dr. Leibl is heard to say, "I love you".

On Monday of the long weekend in May 1990, Elizabeth McKenna ran out of Amytal. She began to feel horrible and tremulous. She left a message on Dr. Leibl's machine and ran out of her home, where she apparently collapsed on the street. Her apartment superintendent apparently observed this incident and later described it to Elizabeth McKenna as a "grand-mal seizure". (She admits this was not medically confirmed.) Dr. Leibl appeared on the scene at that point and identified himself as her doctor. He took her in his car back to his clinic where he again administered Amytal and alcohol for a continuation of their "sessions". In his clinical notes for that day (May 21, 1990) he states, "It took 800mg po plus alcohol to calm her enough to begin hypnotic work".

At the insistence of a friend, Elizabeth McKenna went to the emergency department at the Addiction Research Foundation a few days later. Two physicians from ARF

subsequently contacted Dr. Leibl to discuss her problem. Dr. Leibl apparently acknowledged her addiction to Amytal and agreed with the physicians' recommendations that she be admitted for detoxification. In his clinical notes Dr. Leibl alludes to a discussion with Dr. C about stepping her down from Amytal to Phenobarbital. Elizabeth McKenna was subsequently admitted to ARF for five days during early June, at which time she successfully weaned herself off the Amytal. Dr. Leibl then prescribed Phenobarbital for her when she was discharged from ARF.

Within 5 or 6 weeks of her discharge, Dr. Leibl had resumed the Amytal sessions in order to "facilitate her memory retrieval". During each session she recalls taking 3 to 7 capsules at a time with variable amounts of alcohol. She continued to spend an average of 25 hours per week in the sessions. At this time, Dr. Leibl was providing her with daily envelopes of Amytal, which Elizabeth McKenna estimates contained on average about 10 capsules. She describes herself during this period as in a constant state of intoxication. She lost large chunks of time to complete amnesia. She was afraid to leave her apartment for fear of falling and hurting herself or of lapsing into one of her "alter", MPD personalities and doing something irresponsible as a result.

In July of 1991, Dr. Leibl took Elizabeth McKenna with him on a weeklong trip to Florida and paid for her expenses. They stayed in a beachside condominium with another woman, Ms B, who was identified to Elizabeth McKenna as a social worker with a special interest in MPD. Elizabeth McKenna and Ms B argued a great deal during this vacation which created a significant amount of conflict among the three of them. Elizabeth McKenna was upset to awaken one morning and find Dr. Leibl asleep in bed with Ms B. Later on she returned and Dr. Leibl was on the bed by himself. She lay down with him and eventually fell asleep in his arms. They were both fully clothed and Elizabeth McKenna denies that there was any overtly sexual context to this encounter. During this trip, Dr. Leibl continued the Amytal/alcohol sessions with Elizabeth McKenna.

The Committee viewed several photographs from this holiday taken of Elizabeth McKenna with Dr. Leibl in typical, candid vacation poses. In most of these photos, Dr. Leibl and Elizabeth McKenna are together, holding hands or posing with their arms around each other. The committee also viewed a videotape, which was made by Ms B and Dr. Leibl a few months before the Florida trip and given to Elizabeth McKenna. In this tape Dr. Leibl shows the layout of the condominium and describes how much he and Ms B were looking forward to Elizabeth McKenna joining them later on. Dr. Leibl concludes the video by saying to Elizabeth McKenna: " I love you very, very much, sweetheart".

1992-1994

Elizabeth McKenna consulted her Family Physician, Dr. H, in 1992, who advised Elizabeth McKenna that the Amytal/alcohol treatments were inappropriate. The physician expressed serious concerns about Elizabeth McKenna's addicted state and raised the possibility that Dr. Leibl may be sexually abusing her during the therapy sessions. When she discussed this interaction with Dr. Leibl, he counseled Elizabeth McKenna to change family doctors. Elizabeth McKenna then sent Dr. H a letter terminating their doctor-patient relationship for fear of the potential repercussions against Dr. Leibl if she were to continue.

During the fall of 1993, Elizabeth McKenna met Complainant B, an ex-patient of Dr. Leibl's at a social function. They had not attended any group sessions together, but Complainant B had recognized Elizabeth McKenna from seeing her in the waiting room of Dr. Leibl's clinic. At this social outing, Complainant B confronted Elizabeth McKenna and told her that, during a group therapy session, Dr. Leibl had made the comment to her "You must be doing something to me because I am having a rape fantasy about you". Subsequently, on November 1, 1993, Elizabeth McKenna confronted Dr. Leibl with this information during one of their individual sessions. An audiotape of this session was entered as an exhibit and played before the Committee. In this tape, Dr. Leibl acknowledges that he "may have said that". Elizabeth McKenna replies by stating "You do not share this (information) with a patient". Dr. Leibl continues the discussion by

describing his own personal sexual exploits with a girlfriend. Elizabeth McKenna is quite obviously intoxicated during this interview and, at one point, Dr. Leibl tells her “I’m not willing to have you drink anymore”. He then angrily denounces her for being “arrogant” and challenging him about the “rape fantasy” comment.

The Amytal/alcohol sessions continued on a regular basis until the summer of 1996. During a session on January 12, 1994, after several hours during which Elizabeth McKenna consumed large amounts of Amytal and alcohol, Dr. Leibl became angry with her and attempted to end the session. An argument ensued, in which Elizabeth McKenna demanded that Dr. Leibl leave her the vodka bottle so she could “continue the session on her own”. Elizabeth McKenna maintains that Dr. Leibl then threw the bottle at her, swore at her, and then left the room. Later on that night, when she acknowledges that she was “thoroughly smashed”, she claims that he dragged her down the stairs by her feet. The next day, she discovered that she was covered with bruises and had sustained a large goose-egg on her head. She recalls that at some point, Dr. Leibl called the police to come and take her home, but she refused to leave. She does not recall how she eventually got home that night.

On the following day, she met with Witness E, a social worker who had been helping her work through the issues around the sexual abuse by the priest. Witness E expressed serious concern about her injuries and convinced Elizabeth McKenna to attend the local emergency department to be examined for possible head injury. Witness E was well aware of the Amytal/alcohol treatments and subsequently suggested that Elizabeth McKenna register a complaint with the College about Dr. Leibl. Elizabeth McKenna refused because she believed herself to be very much in love with Ray at this point and felt this would be a betrayal. Elizabeth McKenna confided Witness E’s advice to Dr. Leibl who accused the social worker of “triangulating”.

1994-1996

At some point in 1994, Dr. Leibl became ill with what Elizabeth McKenna understood to be “ulcers on his vocal cords”. As a result, he was unable to speak for a long period of

time, and had to cut back drastically on his work schedule because of his inability to communicate and lack of stamina. Elizabeth McKenna found this very frustrating, as he had become the only source of support in her life. At the same time that she was angry with him, she was also worried about his health. She claims that Dr. Leibl was "extremely cruel" to her during this period. She was aware of his physical limitations and the need for him to cut back on her therapy time. But, she points out that, "Ray was not just a therapist to me. We loved each other. We were a family. We had a relationship and the therapeutic part was by this time only a small part of that." What she resented most was the loss of their personal time together. She maintains she would have been happy to see him or talk to him for just five minutes. Instead, days would go by where she would sit in her apartment by the phone, taking drugs, waiting to hear whether or not Ray would agree to see her.

On one particularly memorable occasion, Dr. Leibl came to her apartment and presented her with a malicious computerized note. During cross-examination, Defence counsel suggested that Dr. Leibl had framed these remarks in the context of a therapeutic exercise designed deliberately to be confrontational. Elizabeth McKenna replied that she did not believe this to be true, and that she interpreted the comments to be intentionally hurtful and spiteful.

By 1995 Elizabeth McKenna was beginning to appreciate the negative effect that Dr. Leibl's treatment was having upon her, and requested that they set aside specific therapeutic time in order for her to discuss "his abusive relationship with (her)". By now, Elizabeth McKenna slept for 18 hours a day and did nothing else in her life, other than go to her sessions with Dr. Leibl. Ultimately, she told him she felt she had a sleeping disorder. He told her she was sleeping so much because she was depressed and suggested she go on antidepressant medication. For some reason, he did not wish to prescribe this himself and suggested she go to see another psychiatrist for this purpose. Elizabeth McKenna agreed to see Dr. E in the summer of 1996 who arranged for her to have a sleep study. Prior to the study, she was advised to abstain from Amytal and alcohol for 48 hours. The sleep study apparently demonstrated both sleep apnea and epilepsy, a

condition that Elizabeth McKenna claims was subsequently attributed to drug withdrawal. Dr. E advised her to stop alcohol completely, and she did so in July of 1996.

Almost immediately after stopping the alcohol, Elizabeth McKenna felt as if she had "come out of a coma". She felt very much better both physically and emotionally. Life took on a brighter outlook and she started to lose weight. She began to realize that she had been severely intoxicated for a very long time. She continued to take regular amounts of Ativan, Valium and Amytal to "sustain herself from withdrawal", but not to the point of intoxication or sedation. After awhile, she began to get angry with Dr. Leibl and challenged him about the drug treatments that she believed had caused her "several wasted years". She admitted that she was still very much in love with him at this point and was quite willing to forgive him despite her anger.

After the alcohol sessions stopped, Elizabeth McKenna began seeing Dr. Leibl less frequently, averaging 4 to 5 hours a week. Realizing how socially isolated she had become over the previous 6 years, she began attending group sessions again in an attempt to reintegrate into social settings. At one point, Elizabeth McKenna challenged Dr. Leibl about how he was treating another patient. Dr. Leibl responded angrily by telling Elizabeth McKenna to mind her own business. Another patient in the group confided in Elizabeth McKenna that Dr. Leibl had forced her to "breast feed" from another patient, who was purportedly a Roman Catholic nun. Elizabeth McKenna confronted Dr. Leibl with this information and accused him of sexual abuse. A very heated discussion ensued.

On November 25, 1996, Dr. Leibl administered Amytal to Elizabeth McKenna and she claims to have no recollection of the balance of that appointment. Dr. Leibl was continuing to provide her with envelopes containing Amytal sufficient to "tide her over" until the next appointment. She was scheduled for another session two days later, but Dr. Leibl subsequently cancelled, claiming that he had to go out of town. She called him the following day requesting more Amytal. He responded and reassured her that he would send it over by taxi, and he would see her the next day. When she attended at his office the following day, November 29, 1996 Dr. Leibl came into the room accompanied by his

wife and handed Elizabeth McKenna a “letter of termination” along with an envelope containing 8 Amytal capsules.

Elizabeth McKenna was devastated. She went into the washroom and immediately swallowed all 8 of the capsules. She then left the clinic and apparently collapsed on the sidewalk. The next thing she remembers was waking up in the hospital emergency department several hours later. She was discharged from emergency later that night. She called a friend who came to the hospital and took Elizabeth McKenna back to the friend’s house, where Elizabeth McKenna stayed for the next week. Elizabeth McKenna can remember nothing about the next 24 hours. Within 24 hours she was feeling so awful that her friend took her back to emergency department where she was treated and released back to the care of her friend.

Elizabeth McKenna called Dr. Leibl several times over the next several days leaving messages asking for drugs. Many of her calls were angry, some nothing more than screaming rants. Several of the transcripts of these calls were read out during the hearing and, although she cannot remember the details of the messages actually left, she fully acknowledges that she was quite capable of all the vicious comments they contained. She admits that she felt abandoned and grief-stricken to think Dr. Leibl would simply discard her like garbage after 20 years of a loving relationship. She also pointed out that she was suffering from severe drug withdrawal at that point, having been on huge doses of Amytal, alcohol and other tranquilizer drugs for the past seven years and having been abruptly cut off on the date of the termination. She finally received a return phone message four days after her initial call to Dr. Leibl in which he agreed to phone in a prescription for Phenobarbital.

On December 16, 1996, Elizabeth McKenna went to Dr. Leibl’s house and confronted him in his office. She wanted him to honour the terms of his “agreement” in the termination letter to provide her with interim drug prescriptions, to sign forms for her TTC pass and to arrange for the transfer of her care to another psychiatrist. When Dr. Leibl saw her arrive, Elizabeth McKenna claims that he screamed at her to “Get out”,

whereupon he went upstairs and called the police. Two police officers responded to his call and came to the house. After a brief interview with Elizabeth McKenna, Dr. Leibl, and his secretary, the officers escorted Elizabeth McKenna out of the house.

Since the termination of her relationship with Dr. Leibl, Elizabeth McKenna has seen four different psychiatrists in an attempt to make some sense out of her relationship with Dr. Leibl and the influence it has had on her life. She felt that none of them felt comfortable in dealing with a patient whose primary complaints had to do with a professional colleague. As a result, she has abandoned further psychiatric treatment of any kind.

Elizabeth McKenna acknowledged that by 1997 she finally felt ready to re-enter the workplace and was gradually reintegrating herself into some type of social life. Currently, it is her opinion that she does not suffer from any “mental illness”. However, she adamantly believes that she was permanently damaged by her relationship with Dr. Leibl and will never again be “OK or alright”. She believes she will always suffer from significant emotional problems for the rest of her life, but having lost all faith and trust in psychiatric treatment, she has resolved to work on these problems on her own.

Complainant B

Complainant B is a 37-year-old woman who was referred by a relative to Dr. Leibl’s practice in 1986. At University, she had been in counseling for episodic depression and issues surrounding dysfunctional relationships with her family, and hoped to continue in some more structured form of therapy during her upcoming co-op work term in Toronto. After completing a written application and participating in an intake interview with Dr. Leibl, she began attending several of Dr. Leibl’s group therapy programs in January 1987.

Dr. Leibl led each of the various groups, with several additional therapists or therapy assistants working under his direction. Complainant B understood that one of the

therapists, Dr. F, was a female psychiatrist, and Therapist G was a Catholic nun, but she had no knowledge of the professional qualifications of any of the others.

The "Psychomotor Group" met on Tuesday and Thursday evenings for approximately 1½ hours a session. Normally about 15 patients participated. Complainant B also attended several "Psychomotor Weekends", a more intensive therapeutic interaction that extended over a three-day period from Friday through Sunday.

The "Hug Group" met on Thursday evenings, and involved 15 to 20 patients, working in pairs. The activities commonly involved patients lying on top of one another, or sitting close together simulating emotional experiences with each other.

The "Neuro-Linguistic Programming" (NLP) group met on Wednesday evenings for approximately one hour. Approximately 10 patients were enrolled in this group. The "Jungian" group also met on Wednesday evenings. Complainant B participated in the NLP and Jungian groups only for a short period during 1987.

Complainant B joined the "Tuesday Intensive" group in November 1987. Dr. Leibl led this group, assisted by a number of co-therapists, including Therapist G (female), Therapist F (male) and Dr. F. During these group sessions, which normally lasted 2 to 3 hours, Complainant B worked on "reparenting" issues with various therapists who would adopt the roles of "ideal mother" or "ideal father". Dr. Leibl functioned as the supervisor of this group, visiting and commenting on the various ongoing work sessions. Techniques employed included regression, cuddling, feeding with baby bottles and lying on top of one another. In addition to the group sessions, Complainant B began working in individual sessions with Therapist G. Complainant B describes her therapeutic interaction with Therapist G in very positive terms.

Sometime during the summer of 1988, Therapist G advised Complainant B and the rest of the group that she planned to leave in a few months time for an extended trip to India. Complainant B became quite distressed about this prospect. Complainant B's own mother

had recently died and she was working through a lot of emotional issues pertaining to her family. She had committed herself to this therapy program and had developed a strong and trusting relationship with Therapist G.

When Therapist G left in the fall of 1988, Complainant B attempted to ally herself with either Dr. Leibl or another therapist (Therapist D) for continuing individual counseling. Unfortunately, neither had time available to accommodate her, so Complainant B was placed on a waiting list. In the interim, Complainant B began seeing Therapist F for individual therapy sessions. She also continued the reparenting work in the Tuesday Intensive Group, with Therapist F assuming the therapeutic role of her "ideal father". Initially, she protested to Dr. Leibl that she was not comfortable interacting with a male therapist for this type of work, but Dr. Leibl told her that Therapist F was the only male therapist available who could provide the "ideal father" role that she required. Dr. Leibl reassured her that working with Therapist F would be "OK".

Complainant B began individual sessions with Therapist F in December 1988. Their appointments took place weekly, on Wednesday evenings, in Dr. F's office, which was geographically separate from Dr. Leibl's clinic. Complainant B was always booked as the last patient of the day. The sessions began in a traditional fashion with Therapist F sitting in a chair behind the desk and Complainant B in another chair across from him. Gradually the pattern shifted. Therapist F gave her a gift on Valentine's day. He would order in pizza to the sessions. They began sitting on the floor of the office, enacting reparenting scenarios and physical cuddling. At one point during a session, she fell asleep in his arms. Therapist F began driving her home and "tucking her in to bed". Gradually the boundaries began to blur. Complainant B acknowledges she was unstable and vulnerable at that stage of her life and, all of a sudden, he seemed to be the focus of her existence. They began having a sexual relationship including sexual intercourse in February 1989. They began socializing regularly outside of therapy sessions. The sexual activity took place at her home and at his home. The sexual relationship continued for approximately four months. The therapeutic relationship continued throughout this period in both group and individual sessions.

Therapist F ultimately disclosed the nature of the sexual relationship in his own personal therapeutic session with Therapist D, who then advised Complainant B to tell all the therapists in the Tuesday Intensive group what had been taking place. Complainant B did this at the group session on June 6, 1989, informing each therapist individually. She claims that Dr. Leibl responded by stating that he believed it was wrong, but as far as he was concerned, it was a matter between "two consenting adults". Complainant B did not disclose this information to any of the other patients in the group. Shortly thereafter, Therapist F announced to the group that he would be withdrawing from further involvement with the group "for personal reasons".

Complainant B met with Therapist F only once more, on July 23, 1989. She had arranged the engagement with the purpose of formally ending the relationship. Unfortunately, and contrary to Complainant B's intentions, they had sexual intercourse that final evening. Complainant B recalls seeing Therapist F only once after that time, in the waiting room of Dr. Leibl's clinic. Complainant B believes that, following the disclosure of the sexual relationship, Dr. F had refused to allow Therapist F access to her office and he subsequently continued to see patients for individual therapy sessions out of Dr. Leibl's clinic.

In 1994, Complainant B made application to the Criminal Injuries Compensation Board (CICB) for alleged sexual abuse by Therapist F in his role as a professional therapist. This matter did not come to hearing until March of 1997. On the day of the hearing, she saw for the first time an affidavit prepared by Dr. Leibl and submitted on behalf of Therapist F. Ultimately, the CICB dismissed the case against Therapist F. Complainant B believes that Dr. Leibl's affidavit misrepresented the facts and was ultimately damaging to her case. She called Dr. Leibl after the CICB decision and requested that he provide an amended affidavit that she could submit to support her appeal of this decision. Dr. Leibl replied that he would be interested in helping her, but he was aware of her complaint to the College of Physicians and Surgeons ("the College") at this point, and was not prepared to discuss the situation further until the adversarial issue was resolved.

At the end of one of the Tuesday Intensive group sessions, Complainant B claims that Dr. Leibl whispered in her ear, “You must be doing something to me, because I am having rape fantasies about you”. She was very stunned and upset by this comment. In her adolescence her father had frequently called her a “whore”, and Dr. Leibl’s comments reinforced in her mind that she was somehow a bad person. It made her feel like Dr. Leibl’s inappropriate feelings toward her were, in fact, her own fault. She made no response to his comment and did not disclose it to any of the other patients or therapists. Prior to this incident, one of the other therapists in the group had initiated discussions with Complainant B about what the therapist perceived as seductive behaviour on her part. That therapist also told Complainant B that she felt her clothing was inappropriate and overly seductive in nature.

Around the time of her mother’s death Complainant B recalls having two individual sessions with Dr. Leibl, at which time he prescribed some short-term medication to assist her with the associated anxiety. When it was pointed out that Dr. Leibl had made notes in her clinical record on 11 separate occasions, Complainant B suggested that he may have been recording discussions they had by telephone or conversations that may have occurred during group sessions. She specifically remembers only two instances where she requested and received individual counseling from Dr. Leibl.

Complainant B left Dr. Leibl’s therapy groups in the fall of 1989, shortly after the disclosure of the sexual relationship with Therapist F. She acknowledges that she could no longer derive any benefit from continuing in Dr. Leibl’s group now that all the therapists were aware of the circumstances. Complainant B subsequently joined an outside support group in 1994, and met Elizabeth McKenna at a social outing sponsored by the group. Complainant B knew Elizabeth McKenna as a patient of Dr. Leibl’s, having seen her in the waiting room of Dr. Leibl’s office. Complainant B did not know Elizabeth McKenna’s name, nor had they attended any group sessions together. Complainant B confronted Elizabeth McKenna at this outing and expressed her displeasure with the fact that Dr. Leibl was referring patients to this group. Complainant B told Elizabeth

McKenna about the “rape fantasy” comment and about the sexual relationship with Therapist F. Elizabeth McKenna expressed disbelief that any of this was true and reported to Complainant B that Therapist F was still working at Dr. Leibl’s clinic. Complainant B understood that Elizabeth McKenna planned to discuss the matter with Dr. Leibl, but she cannot confirm whether or not this actually took place. Complainant B recalls speaking to Elizabeth McKenna by telephone shortly after Elizabeth McKenna’s “termination”, but does not recall discussing the matter on that occasion. Complainant B also acknowledges calling Elizabeth McKenna after the decision from the CICB and requesting the telephone number for the College, with the expressed intent of registering a complaint against Dr. Leibl.

Witness A

Witness A is a 39-year-old woman who was a patient in Dr. Leibl’s practice approximately 5 years ago. She had been diagnosed by another therapist as suffering from MPD and was assigned to the “hug group” by Dr. Leibl. Witness A assumed this was essentially a support group for patients diagnosed with MPD. She participated in this group for a period of approximately 6 to 8 months and received no other treatment either individually or in other group sessions at Dr. Leibl’s clinic.

The group met once a week on Thursday evenings for approximately 2 ½ hours. The initial 20 minutes were spent as an entire group with Dr. Leibl supervising. Then the group would split into partners who would move off separately and work with each other in activities that included cuddling and patients lying on top of one another. Dr. Leibl would roam from group to group, spending 5 to 10 minutes with each. Witness A was told by another patient about the use of baby bottles in therapy but was never exposed to this in the time she spent with the group.

Witness A remembers very clearly that Dr. Leibl would often have 2 females lying on top of him at the same time, one arm around each of them. These were usually the same 2 women whom Witness A did not know, but there was an unwritten law that no one else was to violate their space when this interaction was taking place. Witness A never

observed any overtly sexual contact within this group and describes the physical contact in the nature of reassuring “cuddling”, stroking someone’s hair or fully clothed hugs.

Witness A met Elizabeth McKenna during these hug therapy sessions. They did not socialize outside of the group but became friends and continued to socialize for approximately a year after leaving Dr. Leibl’s practice.

Witness A had occasion to observe the interaction between Dr. Leibl and Elizabeth McKenna as it happened frequently and appeared to be quite different from Dr. Leibl’s behaviour with other patients. To Witness A, there seemed to be no clear-cut boundaries between patient and therapist. The verbal exchanges between the two of them were either very friendly or very angry and confrontational. Dr. Leibl often seemed to be deliberately provoking Elizabeth McKenna and acted in a very condescending manner towards her. On one occasion Dr. Leibl ordered Elizabeth McKenna out of the therapy room because of a disagreement and then followed her out and commenced screaming and swearing at her so that all the other patients could hear the exchange quite clearly.

Following Elizabeth McKenna’s termination by Dr. Leibl, Elizabeth McKenna called Witness A from the hospital emergency department. Witness A went to the hospital immediately and found Elizabeth McKenna in a very distraught state, shaking and fearful about what was happening to her. Witness A agreed to take her home to stay with her for awhile, but after getting home, Elizabeth McKenna became increasingly depressed and cried a great deal. She was tremulous and sweaty and appeared to Witness A as if she was going through withdrawal. For fear she was about to have a seizure, Witness A took Elizabeth McKenna back to the emergency department where she was assessed and ultimately discharged back into her care. Witness A once again took Elizabeth McKenna home.

Over the next several days Elizabeth McKenna called Dr. Leibl repeatedly for help but never received a return call. Finally, Witness A phoned Dr. Leibl herself and spoke to Dr. Leibl’s wife. During that conversation, Witness A informed her that she would not be

returning to group. Shortly thereafter, Dr. Leibl called Witness A and left a message that she was officially "terminated from the group". Approximately one week later, Elizabeth McKenna decided she was well enough to manage on her own and returned to her own residence.

Witness B

Witness B is a lawyer who first met Elizabeth McKenna in 1976 and describes their relationship as that of very good friends. From 1976 to 1981 Witness B recalls that she either met with Elizabeth McKenna or spoke to her by telephone once or twice per month. She was aware that Elizabeth McKenna was in psychiatric treatment and that Elizabeth McKenna had moved from Northern Ontario to seek a new type of treatment in Dr. Leibl's clinic. During the period of 1976-1981 Witness B describes Elizabeth McKenna's emotional state as one of sadness, depression and anxiety. At that time, they lived close to each other and would get together at one another's home or at local restaurants. Witness B states that Elizabeth McKenna did not drink alcohol to excess during that period, perhaps having one or two glasses of wine over the course of a meal or evening visit. Witness B never observed Elizabeth McKenna to be intoxicated.

From 1981-1984 Witness B was attending law school out of town so her contact with Elizabeth McKenna was limited; however, they continued to meet every 3 or 4 months when Witness B visited Toronto and spoke by telephone every couple of months.

Between 1984 and 1989 Witness B was back living in Toronto and the two resumed the previous pattern of meetings once or twice a month as well as keeping in touch by telephone. Witness B describes Elizabeth McKenna as doing quite well at that time. She felt Elizabeth McKenna was "pulling herself together", working at meaningful jobs and generally enthusiastic about her life. Elizabeth McKenna continued to have periods of depression, but overall she seemed to be doing better than at any other time during their relationship.

All this appeared to change around 1988-89. By this time, Elizabeth McKenna began to appear intoxicated or under the influence of drugs. Witness B recalls several incidents where Elizabeth McKenna would fall asleep in mid sentence during a meal at a restaurant, her head dropping onto the table. When leaving the restaurant, Witness B usually had to support her, as she seemed incapable of walking on her own. Frequently, Witness B had to accompany her all the way back to her apartment to ensure she did not stagger into the street. Elizabeth McKenna's speech was often slurred to the point of being unintelligible. Witness B would sometimes call Elizabeth McKenna after one of her sessions with Dr. Leibl and Elizabeth McKenna would fall asleep during the conversation, leaving the phone off the hook. Witness B began to be fearful of Elizabeth McKenna getting home safely after these sessions. This pattern of behaviour continued uninterrupted until 1996.

Witness B felt uncomfortable about meddling in Elizabeth McKenna's affairs, but as she became progressively more concerned about Elizabeth McKenna's condition, she insisted that Elizabeth McKenna go to the Addiction Research Foundation for an assessment, threatening to terminate the friendship if she did not comply.

Witness B recalls speaking to Dr. Leibl twice in 1990. In these discussions Witness B described what she had observed and expressed her concern. Witness B recalls Dr. Leibl reassuring her that Elizabeth McKenna would "be OK" and that the treatment was suited to her psychiatric diagnosis. In July 1990 on, Witness B received a letter from Dr. Leibl which was entered as an exhibit in the hearing. In this letter, Dr. Leibl stated, "*I have come to love her and care very much for her becoming well*". In this letter, Dr. Leibl disclosed the nature of Elizabeth McKenna's medical diagnosis (MPD), and goes on to state, "*she is the first patient with Multiple Personality Disorder whom I have treated and so there is a lot that I am having to learn*". Dr. Leibl explains in this letter that he had "*no alternative to prescribing that medication. Nothing else was helping, and Elizabeth McKenna would shake in terror without it. I had previously consulted with a pharmacist about the risks. There is "never" a risk of convulsions unless there is withdrawal of the drug. Since there was to be no withdrawal, I (was) shocked about convulsions*

occurring". Dr. Leibl goes on to express his opinion that, even should convulsions occur, there was likely no danger because "*Elizabeth McKenna stayed out of danger's way when she discovered herself at risk of convulsing*."

By summer/fall of 1996, Witness B noticed a marked change in Elizabeth McKenna's demeanour. Her speech became less slurred; she appeared to have more energy and had regained her previous feisty personality. Elizabeth McKenna began to express anger towards Dr. Leibl who she now acknowledged had maintained her in a constant state of intoxication for the past 7 years.

Elizabeth McKenna telephoned Witness B a couple of days after the termination by Dr. Leibl. Witness B observed that she was extremely distraught and panicky. Witness B visited her at her apartment several days later and Elizabeth McKenna still appeared agitated and depressed.

Witness C

By joint agreement of counsel, a transcript of testimony given by Witness C in a civil trial was entered as evidence to this hearing.

Witness C has been a psychiatrist working in Toronto since 1958. He has served in prominent hospital positions for a period of 21 years.

Witness C met Dr. Leibl during Dr. Leibl's residency training program. In 1990, Dr. Leibl asked Witness C to take him on as a patient in psychotherapy and Witness C provided a course of psychotherapy to Dr. Leibl from 1990 until 1998.

Witness C acknowledged receiving a telephone call from Elizabeth McKenna sometime following her termination from Dr. Leibl's practice. He also acknowledged that Elizabeth McKenna subsequently registered a formal complaint against him to the College.

Witness C testified that he never acted in the capacity of Dr. Leibl's clinical supervisor. Everything he provided to Dr. Leibl over the course of their relationship related to

personal psychotherapy. Witness C does not recall whether or not Dr. Leibl ever consulted him informally in his capacity as a senior medical colleague, but he felt that "probably" there were times when this may have occurred. Witness C had no recollection of, nor was there anything in his notes about, any discussion with Dr. Leibl about the use of alcohol as an aid to hypnosis. Witness C would never support the use of alcohol for any purpose in the practice of psychiatry. He does recall Dr. Leibl mentioning his use of Amytal on one or at most two occasions. Witness C believes he would have given his opinion that there was a limited current indication for the use of sodium Amytal because of the new medications available which are less habituating. Witness C never discussed with Dr. Leibl what he planned to do with the Amytal nor what he was doing in relation to dosages and frequency of administration.

Witness C does recall Dr. Leibl asking for peer advice around the specific issue of Elizabeth McKenna's termination, although he was never aware of her name until afterwards. He recalls being provided with information by Dr. Leibl that Elizabeth McKenna was becoming antagonistic and threatening in or about 1996. Witness C stated that there appeared to be no alternative to termination at that point given the nature of the patient/therapist relationship, and that he communicated this opinion to Dr. Leibl. He acknowledged having reviewed the letter prepared by Dr. Leibl, prior to it being given to Elizabeth McKenna and advising Dr. Leibl on the manner of carrying out the termination.

Witness D

Witness D is a medical doctor who worked as a Family Physician in Toronto from 1984 to 1992. From October 18, 1989 until January 1992, Elizabeth McKenna was a patient in Witness D's practice.

During this period of time, Witness D was aware that Elizabeth McKenna was also under the care of Dr. Leibl for psychiatric treatment. Witness D was aware of the nature and frequency of both the group and individual sessions with Dr. Leibl as well as the medications Elizabeth McKenna was using under Dr. Leibl's direction. Witness D noted that Elizabeth McKenna's emotional state fluctuated dramatically during the period she

was under her care. Elizabeth McKenna frequently presented to Witness D's office in an apparent stuporous state, slurring her speech, stumbling and appearing intoxicated. At other times, Elizabeth McKenna appeared quite normal and lucid. Elizabeth McKenna complained of chronic fatigue and hypersomnolence, missing several appointments with Witness D because she was unable to get out of bed. Elizabeth McKenna also presented with frequent injuries related to falls. On one occasion in January 1990 Witness D treated Elizabeth McKenna for an infection in her foot which had apparently resulted from a failed attempt by Dr. Leibl to inject Amytal intravenously in that location.

Witness D repeatedly expressed her concerns to Elizabeth McKenna that she was taking far too many sedating drugs in very inappropriate doses. She also told Elizabeth McKenna that she felt the frequency and duration of the sessions with Dr. Leibl were inappropriate and transgressed proper professional boundaries. She strongly recommended that Elizabeth McKenna stop both Amytal and alcohol. Witness D noted that Elizabeth McKenna was very protective of Dr. Leibl throughout this period and was uncomfortable with her criticisms of his treatment.

On May 31, 1990 Witness D phoned Dr. Leibl to express her concerns about Elizabeth McKenna's overly sedated condition and her continuing use of Amytal and alcohol in light of these symptoms. She found Dr. Leibl's explanation for the use of these drugs nonsensical and observed that he sounded rather odd and "dreamy" during their conversation.

In July 1990 Elizabeth McKenna requested that Witness D refer her to a physician who could assist in identifying accessible intravenous sites so that she could resume iv Amytal sessions with Dr. Leibl. Witness D advised Elizabeth McKenna this would be totally inappropriate in light of her recent rehabilitation from clinically documented Amytal addiction. Witness D strongly recommended that Elizabeth McKenna not resume the treatment.

Observing that Elizabeth McKenna was becoming progressively more dysfunctional, Witness D called Dr. Leibl again on January 20, 1992. She expressed in a strongly worded manner that the continuing treatments with Amytal and alcohol made no sense, particularly in light of the fact that Elizabeth McKenna was also consuming high doses of other sedating medications such as Valium, Ativan and Tylenol #4. Elizabeth McKenna told Dr. Leibl that she felt he should stop all these prescriptions. Instead of accepting this advice, Dr. Leibl suggested he would prescribe Eldepryl (a central nervous system stimulant) in order to counteract Elizabeth McKenna's fatigue. Witness D expressed her opinion to Dr. Leibl that this was contraindicated and inappropriate.

Following this conversation, Witness D consulted with a psychiatrist colleague about the methodology of Dr. Leibl's treatment, and this consultant reinforced her concerns that it was totally inappropriate under any circumstances. Dr. Leibl then called Witness D the following day (January 21, 1992) and Witness D took the opportunity to restate her concerns about the treatment, as well as sharing the opinion that she had solicited from the psychiatric consultant. Witness D also recommended that Dr. Leibl terminate his relationship with Elizabeth McKenna. Dr. Leibl responded that he would indeed discontinue the medication and alcohol, but that he was unwilling to terminate the relationship with Elizabeth McKenna at this time because she was "too fragile". Witness D pointed out to Dr. Leibl that he was leaving himself very open to criticism if he continued his treatment of Elizabeth McKenna.

Witness D next met with Elizabeth McKenna the following week on January 28, 1992. During that interview, she counseled Elizabeth McKenna at great length about her concerns for her health if she were to continue the medication and treatments with Dr. Leibl. Witness D strongly recommended that Elizabeth McKenna stop all medication and seek a new psychiatric therapist. As in the past, Elizabeth McKenna rose firmly and strongly to Dr. Leibl's defence. Witness D never saw or spoke to Elizabeth McKenna again after that appointment. Her office received a call from Elizabeth McKenna shortly thereafter terminating the doctor/patient relationship. Subsequently, Witness D received a written request for transfer of her medical records to another family physician.

Witness E

Witness E is a qualified Social Worker who has provided counseling services to patients privately and through institutional resources since 1970. In 1992, she completed a Masters degree in Social Work and, from 1992 to 1998 she operated a counseling practice in Toronto focusing on patients who were victims of sexual abuse. Elizabeth McKenna was a client of Witness E from October 1992 to March 1994. The intended purpose of the counseling sessions was to assist Elizabeth McKenna in dealing with the abusive relationship with the priest.

From the outset of their relationship, Witness E observed that Elizabeth McKenna's demeanour was erratic and disturbing. Sometimes she could be clear and articulate; while at other times she appeared "spacey", confused and somnolent. Elizabeth McKenna frequently missed appointments because she could not wake up. Her speech was often slurred and her thought processes appeared fragmented. Initially, Witness E attributed this to Elizabeth McKenna's purported psychiatric diagnosis, which she understood to be Multiple Personality Disorder. However, as she learned more about the nature of the treatment Elizabeth McKenna was receiving, Witness E began to be concerned that she was overmedicated. Witness E was aware that Dr. Leibl was financially subsidizing Elizabeth McKenna at this time and she expressed her concern to Elizabeth McKenna that such an arrangement created a very unhealthy dependency relationship. By January 1993, Witness E had become frustrated in that she was unable to conduct any meaningful work on the original contract to deal with the prior sexual abuse. Each and every appointment ended up focusing on issues relating to Elizabeth McKenna's relationship with Dr. Leibl.

Elizabeth McKenna brought in audiotapes of her therapy sessions with Dr. Leibl for Witness E to review. Initially, Witness E was reluctant to do so because of concerns of "triangulating" the therapeutic relationship. Ultimately, she agreed to listen to portions of these tapes and was shocked to hear Dr. Leibl say to Elizabeth McKenna, "I love you, sweetheart" accompanied by subsequent kissing sounds. She was also concerned by Dr.

Leibl's angry outbursts including swearing and yelling at Elizabeth McKenna. Witness E then called Dr. Leibl and requested a meeting with him to discuss her concerns.

Witness E did meet with Dr. Leibl and confronted him with what she considered significant boundary violations and his need to maintain professional control in his therapeutic relationship with Elizabeth McKenna. Dr. Leibl replied that the terms of affection were part of "reparenting" therapy and the angry interchanges represented a form of "role-playing". Witness E reaffirmed her concerns that this did not justify unprofessional behaviour and recommended that Dr. Leibl seek personal counseling with respect to boundary issues. She gave him the names of two therapists that specialized in this area and Dr. Leibl assured her that he would contact one of them.

On June 9, 1993 Witness E attended a meeting at a lawyer's office to discuss Elizabeth McKenna's upcoming testimony at the CICB. Dr. Leibl also attended and, when Elizabeth McKenna entered the room, he greeted her with a hug and kiss and addressed her with "Hello, Sweetheart". Both Witness E and the lawyer were quite shocked by this behaviour and felt that it was quite inappropriate.

On July 5, 1993, Elizabeth McKenna showed Witness E her photo album containing pictures of Dr. Leibl and herself in various social settings and embraces. Witness E addressed these during the session as significant boundary violations.

On January 12, 1994, Elizabeth McKenna arrived at Witness E's office with large bruises over her back and a lump on the back of her head. Elizabeth McKenna told Witness E she had sustained these injuries from being dragged down the stairs by Dr. Leibl. This was the first occasion on which Witness E became aware of the Amytal/alcohol sessions. Witness E expressed her concerns that Dr. Leibl's behaviour was now much more serious than just boundary violations and that she felt he should be reported to the College. Elizabeth McKenna refused to give her consent, professing her fear of being terminated by Dr. Leibl as well as having him withdraw his financial support.

Dr. Leibl called Witness E at her home on February 25, 1994. During a lengthy conversation, Witness E challenged his use of alcohol and barbiturates as well as other sedating drugs, his financial support to Elizabeth McKenna including gifts and the way in which he was utilizing "reparenting therapy". Dr. Leibl defended his use of alcohol by stating that Elizabeth McKenna had threatened suicide if he stopped providing it. Witness E informed him of his responsibility to manage his therapeutic sessions and not to engage in unethical conduct regardless of what his patient demands. According to Witness E, Dr. Leibl thanked her for bringing these matters to his attention and assured her he would discontinue the use of alcohol immediately.

On March 5, 1994, Witness E received a telephone message from Elizabeth McKenna terminating further counseling sessions. Subsequently, Witness E received occasional telephone messages from Elizabeth McKenna but did not actually talk to her again until 1997 when Elizabeth McKenna called her to tell her of Dr. Leibl's termination. Witness E recalls that Elizabeth McKenna was very distraught and angry during that discussion. She appeared to be grieving as if for a lost loved one. In late 1997, Elizabeth McKenna provided consent for Witness E to file a report to the College.

Witness F

Witness F is a retired pharmacist. From 1963 to 1998 he operated his own pharmacy at two different locations in Toronto.

Witness F testified that Dr. Leibl had an account with his pharmacy for many years. During his entire career, Elizabeth McKenna was the only patient for whom Witness F dispensed Sodium Amytal. In all instances, either Dr. Leibl or his secretary ordered the Amytal by telephone. Witness F never dispensed a prescription to Elizabeth McKenna. In fact he never met or spoke to Elizabeth McKenna during this entire period. On some occasions, Dr. Leibl would pick up the prescription himself, but usually the pharmacy delivered it directly to Dr. Leibl's office. Witness F cannot recall any other situation where he would deliver a patient's prescription to the doctor's office rather than dispensing it to the patient. He had no idea for what clinical indication Dr. Leibl was

prescribing the Amytal, nor did he know the dosage Dr. Leibl was providing to Elizabeth McKenna. Witness F was unaware if Elizabeth McKenna was receiving prescriptions from any other pharmacy for this or any other medications.

Under cross-examination, Witness F acknowledged that he had a professional obligation to monitor and challenge any prescriptions for which he had concerns about the quantity of medication used. He stated that he had never questioned Dr. Leibl about his prescribing of Amytal for Elizabeth McKenna.

Dr. Ann Elizabeth Thomas

Dr. Thomas graduated in Medicine in 1968 and received her fellowship in Psychiatry in 1986. She is currently an associate professor of psychiatry. The panel reviewed her curriculum vitae and accepted her as an expert qualified to give testimony as an expert in the field of Psychiatry and in the standard of care provided by Dr. Leibl in the treatment of Complainant B. A written report submitted by Dr. Thomas to the College was entered as an exhibit.

Dr. Thomas identified several issues with respect to Dr. Leibl's clinical record, which she considered deficient, and therefore did not meet the acceptable standard of care. In Dr. Leibl's "intake interview" with Complainant B, Dr. Thomas noted that there was no recorded assessment of Complainant B's mental status. Dr. Leibl concluded that Complainant B was suffering from "Anxiety neurosis and Acute Confusional State" but Dr. Thomas could identify no information in the record to support such a diagnosis. Furthermore, Acute Confusional State is usually the result of an organic disorder and there is no indication that Dr. Leibl made any effort to investigate such a possibility. In his discharge summary, Dr. Leibl identified two different diagnoses, "(initially) Depression" and "Dissociative Personality Disorder". Dr. Thomas could find no entries in Dr. Leibl's recorded notes to support a diagnosis of Depression and that without some form of qualification, "Depression" is not an adequate diagnosis in itself. It was also Dr. Thomas' opinion that the diagnosis of "Dissociative Personality Disorder" did not exist in 1989 and is therefore meaningless.

Dr. Thomas noted that over the course of 2 years of continuing therapy, there were only five or six clinical entries provided by Dr. Leibl in the records she reviewed. There was no indication in the record that he had ever reviewed, or acted upon any of the "self-reported" entries made by Complainant B during that period. In Dr. Thomas' opinion, there were several comments made by Complainant B in her journal that should have alerted an astute clinician to entertain a diagnosis of Clinical Depression. However, there is no documentation to support that Dr. Leibl considered such a possibility or made any attempt to assess Complainant B further for such a diagnosis. In one entry, Dr. Leibl notes that he prescribed Lithium, but nowhere could Dr. Thomas see any documented rationale for such a treatment, nor could she find any notation of appropriate screening labwork.

Dr. Thomas observed that patients with dissociative disorders require very strict boundary limitations in order to establish trust in a therapeutic relationship and feel "safe" within that environment. She believes that this would preclude touching of any nature whatsoever, and that such patients should not be placed into a group therapy milieu, particularly one which involved regular cuddling between patients and therapists, and patients and therapists lying on top of one another. Dr. Thomas felt that a number of entries made by Complainant B in her self-reported record betray evidence of a dissociative disorder because of obvious differences in the handwriting and signature. In her report, Dr. Thomas stated that these entries should have led Dr. Leibl to assess for a dissociative disorder. Under cross-examination, Dr. Thomas admitted that she was unaware of the fact that Complainant B had injured her right arm, requiring her to make at least two of these entries with her left hand. Also, Dr. Thomas had attributed the initials following the entry to the patient herself when, in fact they had been made by the supervising therapist. Dr. Thomas also acknowledged that dissociative disorders were only starting to be recognized by the psychiatric community in the late 1980's and not all psychiatrists at that time would necessarily be familiar with the condition. On reconsideration of this issue, Dr. Thomas concluded that she was in error to suggest that

Dr. Leibl fell below the standard of care in not appropriately considering this diagnosis in his treatment of Complainant B.

Dr. Thomas stated that the "rape fantasy" comment was completely inappropriate. The personal feeling conveyed by Dr. Leibl to Complainant B in this circumstance represents an example of "counter-transference" which all psychiatrists are trained to recognize. Dr. Thomas believes there are no circumstances in which it is acceptable to disclose such a feeling to the patient. This is particularly true for dissociative or post-traumatic patients. In effect, this serves to "blame the victim" and destroys the trust between patient and therapist. Dr. Thomas felt that such disclosure can serve no therapeutic purpose whatsoever, and is unacceptable in the extreme. In addition, Dr. Thomas believes that Dr. Leibl committed a serious breach of patient confidentiality by discussing the details of the "rape fantasy" session with Elizabeth McKenna. In particular, comments made by Dr. Leibl to Elizabeth McKenna that Complainant B was "provocative" were totally inappropriate.

Dr. Thomas feels that non-medical therapists should only participate in medical group therapy under direct supervision of a psychiatrist and under no circumstances should a lay therapist lead a group therapy session in the absence of the responsible psychiatrist. With respect to Therapist F, it is Dr. Thomas' opinion that Dr. Leibl should have been supervising his therapy with Complainant B much more closely and that it is unacceptable for Dr. Leibl not to know the details of that therapeutic relationship. After review of the clinical record, Dr. Thomas noted that Complainant B made an entry dated Aug 6, 1988 wherein she states, "I should never have become involved with [Therapist F]…I am really afraid of how I can cross boundaries". Dr. Thomas suggested that Dr. Leibl should have explored this disclosure and, had he done so, he may have been able to intervene in the inappropriate sexual relationship. During cross-examination, Dr. Thomas acknowledged that the date of this entry by Complainant B was erroneous and was actually made on Aug 6, 1989, two months after Complainant B advised Dr. Leibl of the relationship. Consequently, Dr. Thomas revised her opinion that, in fact this did not represent a breach of Dr. Leibl's professional responsibility.

Dr. Brian Hoffman

Dr. Hoffman is an Associate Professor of Psychiatry at the University of Toronto and Chief of Psychiatry at North York General Hospital, a community teaching hospital affiliated with the University of Toronto. The Committee accepted Dr. Hoffman as an expert witness in the field of psychiatry and qualified to give evidence on the standard of practice with respect to Dr. Leibl's care of Elizabeth McKenna.

Dr. Hoffman provided evidence in the form of a detailed report, which was entered as an exhibit to this hearing. Dr. Hoffman identified a number of broad areas in which he felt that Dr. Leibl had fallen below the standard of care and further qualified his findings by providing examples taken from the evidence before the Committee:

1. Inappropriate, humiliating or demeaning treatment of the patient

Dr. Hoffman cites multiple examples of this type of behaviour in his report, including:

- the use of the "corner contract" in group therapy sessions
- repeatedly and for a prolonged period treating Elizabeth McKenna in a regressive fashion, feeding with a baby bottle
- yelling and swearing at Elizabeth McKenna on repeated occasions
- making insulting comments
- provision of the "pooh bag" to Elizabeth McKenna as a means for dealing with her diarrhea

Such behaviour is evident from the beginning of the therapeutic relationship in 1976 through to its termination in 1996. In Dr. Hoffman's opinion, it is inexcusable and falls well bellow the standard of care expected of a competent psychiatrist.

During cross-examination, Dr. Hoffman was asked whether he considered the context of the malicious computerized note. He was taken to Dr. Leibl's clinical note of the session immediately prior to this event in which Dr. Leibl proposes, "Perhaps I can try a controlled blowup". Defence counsel suggests that this note clearly documents that the insulting comments were part of a planned therapeutic strategy to confront Elizabeth

McKenna about her own insulting and self-demeaning behaviour. Dr. Hoffman replied that under no context could insults be considered therapeutic in psychiatry. It would be appropriate to encourage a patient to talk about their feelings of negative self-image, but it can never be appropriate for a therapist to address a patient in this manner. In Dr. Hoffman's opinion, framing the comments as a therapeutic strategy simply represents Dr. Leibl's rationalization of his own expressions of anger towards Elizabeth McKenna. Dr. Hoffman also rejected the suggestion that this was an acceptable therapeutic strategy based on the Ericsonian technique of "paradoxical therapy". In his opinion, this does not represent paradoxical therapy in which the therapist asks a patient to do something which is the opposite of the patient's actual behaviour.

2. Inappropriate use of alcohol or barbiturates

Dr. Hoffman pointed out that Amytal has been out of favour as a sedative/hypnotic medication since the late 60's when the benzodiazepine drugs became available. The use of Amytal as an antianxiety drug after 1970 would be considered unacceptable practice. The only indications for its use intravenously would be to attempt to bring a schizophrenic out of a catatonic stupour, or as an attempt to rediscover blocked memories in a patient suffering from a severe post-traumatic state. In such instance, it should be used for a maximum of three sessions for any one patient over a period of three weeks. The maximum therapeutic dose in a single Amytal interview would be 300 to 500mg per injection, repeated once if necessary. Exceeding this dose would be extremely dangerous due to Amytal's toxic and respiratory depressive effects, particularly in a non-hospital setting.

Dr. Hoffman believes there is absolutely no other clinical indication for using Amytal in therapeutic sessions. It is now well known in psychiatry that the blocked memories revealed under Amytal interviews are no more easily elicited than repeated interviews within a trusting therapeutic relationship. Once the "memory" has been retrieved, continuing on in a "therapy" session is akin to talking to a drunk. No meaningful work can be done when a patient is intoxicated.

Repeated, high doses of a barbiturate such as Amytal will lead inevitably to physiological addiction. This would be well known to any physician at the time and is well documented in the CPS (medication manual) and other medical literature. Referring to the CPS, Dr. Hoffman pointed out that the therapeutic dose of Amytal falls within the range of 60 to 200mg. The average lethal dose is approximately 10x the therapeutic dose, or 600 to 2000mg. Dr. Leibl administered Amytal to Elizabeth McKenna in doses well in excess of the potential lethal dose on repeated occasions, often during the same session. This drug carries a serious risk of respiratory depression, suppression of other brain centres such as the gag reflex, leading to potential aspiration and loss of consciousness, falls and other potential injuries.

In reviewing Dr. Leibl's records, Dr. Hoffman points out that Dr. Leibl regularly used huge doses of intravenous Amytal in 1989, up to 2500mg in a single session. In addition, he injected it as an undiluted bolus dose rather than diluted in a slow infusion. This is a totally flawed modality, which would carry with it a significantly increased risk of serious toxic reactions.

In addition to the direct toxic effects of Amytal, chronic excessive use of any barbiturate medication carries with it the significant risk of withdrawal once the user interrupts or discontinues the medication. In barbiturate addiction, the brain is used to high levels of the drug and, when deprived of the medication it "swells" and this leads to serious complications such as seizures, comatose states and death. It is well known that withdrawal from alcohol (delirium tremens) carries a mortality rate of 20%. Combined with the withdrawal of barbiturates, the risk of death as an outcome would certainly escalate. Dr. Hoffman points out that Dr. Leibl knew of the fact that Elizabeth McKenna had experienced withdrawal seizures on at least two occasions, yet he did nothing to address the problem other than provide her with more medication. When Dr. Leibl terminated Elizabeth McKenna from his care, Dr. Hoffman believes it was completely inappropriate to provide her with 8 tablets of Amytal and no immediate referral to another specialist to manage her condition when she was clearly addicted to Amytal and at serious risk of barbiturate withdrawal.

When Witness D called Dr. Leibl to advise him of her concerns about Elizabeth McKenna's stuporous condition and medication overuse, Dr. Leibl told her that he was not prepared to stop the medication, but was considering prescribing Eldepryl, a central nervous system stimulant, to counteract Elizabeth McKenna's somnolence. Witness D strongly recommended against this and Dr. Hoffman shares her opinion. Dr. Hoffman makes reference to another passage in the CPS, which states, "*CNS stimulants are not indicated (for patients on barbiturates). Mortality rates were much higher when used formerly in barbiturate overdose.*"

Quoting further from the CPS: "*Serious toxicity can result at lower barbiturate levels if combined with alcohol or other CNS depressant drugs. The rate of absorption of barbiturates increases in combination with alcohol*". Dr. Hoffman points out that Dr. Leibl regularly gave Elizabeth McKenna enormous doses of alcohol, often 7 to 15 oz per session, in addition to the toxic doses of Amytal. In addition, Elizabeth McKenna was clearly being prescribed large doses of additional sedative medications such as Valium, Ativan, Noludar and Tylenol #4.

Dr. Hoffman stated unequivocally that there are no uses whatsoever for alcohol in the practice of psychiatry and he is aware of no authority that condones the use of alcohol in any therapeutic modality.

Dr. Hoffman stated that 6oz or more of alcohol per day on a regular basis is known to cause addiction. Also, when an individual begins to require more than that dose to achieve the desired effect, he/she is demonstrating tolerance to the drug and this is an absolute sign of developing addiction. Dr. Leibl continued to recommend that Elizabeth McKenna take increasing amounts of alcohol to "achieve the desired effect". In one of his clinical notes from 1989 he actually states, "this woman has incredible drug resistance". It seems inconceivable to Dr. Hoffman that any competent medical practitioner would not be aware that he was creating an addict.

After discontinuing the intravenous Amytal because he had exhausted the supply of accessible venipuncture sites, Dr. Leibl began prescribing oral Amytal tablets to Elizabeth McKenna as an alternative. These were used both in sessions (in combination with alcohol) and as an antianxiety agent for Elizabeth McKenna to take between sessions. Dr. Hoffman was taken to Elizabeth McKenna's medication record, which documented the following prescriptions for Amytal:

1991 100 x 200mg tabs per month from May to November
1992 1400 x 200mg tabs
1993 500 x 200mg tabs
1994 500 x 200mg tabs
1995 to 1996 returned to 100 x 200mg tabs per month

Dr. Hoffman describes this as a grossly excessive and prolonged dose, which could have no potential outcome other than addiction. Different from a situation with an individual who becomes addicted to street drugs, the responsibility for creating and maintaining an addiction to a prescription medication rests solely with the prescriber of the drug. One cannot justify the continuing use of Amytal as "maintenance" in the same way Methadone might be employed for a heroin addict.

In light of Elizabeth McKenna's admission to ARF for treatment of barbiturate addiction in 1990, Dr. Hoffman feels that it was nothing short of sheer madness for Dr. Leibl to reinitiate Amytal, both in therapeutic sessions and as an antianxiety medication, within weeks of her discharge. In addition, Dr. Leibl's refusal to accept the advice and counsel of both the addiction specialists and Elizabeth McKenna's family doctor in continuing such treatment shows blatant disregard for the well being of his patient.

In Dr. Hoffman's opinion, it was totally inappropriate for Dr. Leibl to order the Amytal directly from the Pharmacy and dispense it to the patient himself. It is an intrinsic part of the pharmacist's role to monitor the dispensing of medication to patients. By doing so himself, Dr. Leibl precludes the pharmacist from performing this function, and

conveniently deflects any possibility of the pharmacist providing any surveillance over Dr. Leibl's prescribing practice.

Dr. Hoffman believes that Dr. Leibl's use of these drugs was not simply "poor judgement" but rather an abrogation of medical ethics to do no harm, and complete disregard for the harmful and dangerous effects of these drugs. Dr. Hoffman sees no evidence that Dr. Leibl is amenable to education on these matters, or that he would change with supervision of his practice and/or psychotherapy.

3. Creation of undue dependency.

Dr. Hoffman points out that intensive psychotherapy, like medication, can be very beneficial but can also be very harmful. One of the main side effects of intensive psychotherapy is excessive dependency, whereby the patient and therapist become dependent upon one another and the patient may lose contact with family members, friends and goals in life. Although some degree of dependency is necessary in order for the patient to develop trust with his/her therapist, the therapist's objective must always be to help the patient move away and progress towards independence, much like an adolescent. Persistent dependency is a potentially serious outcome of intensive psychotherapy, and must be closely monitored and managed by the therapist.

If a psychiatrist wishes to do this intensity of work with a patient, he/she is expected to receive training and/or supervision through a psychoanalytic institute. This is recommended because the feelings of transference (of patient toward therapist) and countertransference (of therapist toward patient) can be very intense and must be managed to the benefit of the patient.

Dr. Hoffman points to many indications in Dr. Leibl's notes that suggest that this aspect of therapy was mismanaged:

- Increased number of hours per month of therapy, beyond even what a psychoanalyst is trained to handle. According to the OHIP printouts of services, between 1989 and

1996, Dr. Leibl was seeing Elizabeth McKenna on average at least 33 hours per month.

- Increased length of sessions, often lasting 5 hours or more
- Giving the patient many gifts and money of considerable value over several years
- Going by first names, touching and disclosing personal information to the patient
- Encouraging inappropriate regression, allowing suckling on his thumb, encouraging the patient to call him "Mommy-daddy Ray", celebrating birthdays and Christmas together, socializing and dining out together.
- Routinely calling Elizabeth McKenna at home after sessions
- Repeatedly calling Elizabeth McKenna on weekends or when on holidays, often several times a day, or encouraging Elizabeth McKenna to call him

Dr. Hoffman points out that Dr. Leibl encouraged and, in fact assisted Elizabeth McKenna to break off contact with her family. By doing so, Dr. Leibl increased his control over Elizabeth McKenna and her dependency upon him. This action also conveniently eliminated potential critics of Dr. Leibl's therapeutic methods. Clearly, Dr. Leibl made the judgement to take this action on a unilateral basis without any information from any corroborating source that might confirm or refute the purported actions of Elizabeth McKenna's family.

Dr. Hoffman believes that the greeting cards and photographs in evidence before the Committee clearly demonstrate a dependent relationship with significant intimate overtones by both parties. Dr. Hoffman considers Dr. Leibl's use of the term "Mommy-daddy Ray" outside of therapy sessions as ridiculous. He believes this can only serve to perpetuate the infantilization of his patient.

By providing Elizabeth McKenna with essentially limitless amounts of alcohol, Amytal and other potentially addictive drugs, he made her an addict. Now, on top of the psychological dependency fostered by Dr. Leibl's behaviour, he added the dimension of physical dependency as well. She was broke, so where else could she maintain her supply except through him?

In Dr. Hoffman's opinion, Dr. Leibl should have recognized the dependent nature of Elizabeth McKenna's personality very early in the therapeutic relationship and taken appropriate steps to deal with it. Instead he fed her dependency by giving her whatever she wanted. The goal of any psychotherapeutic relationship is to move a patient towards independence, and Dr. Leibl did exactly the opposite.

During cross-examination, Dr. Hoffman accepted that Transactional Analysis was a therapeutic modality that was taught in medical schools and residency training programs in the 1970's. It is included in authoritative textbooks of psychiatry and is recognized by the medical profession as an appropriate treatment to be used by psychiatrists. Dr. Hoffman would not agree that Reparenting Therapy, as a subschool of TA, was similarly appropriate for psychiatric practice. The Jackie Schiff model of reparenting is a peripheral school, which would not be found in any authoritative textbook of psychiatry.

Although he recognized it as a valid therapeutic technique, Dr. Hoffman pointed out that Transactional Analysis was developed as a non-medical treatment. A lay therapist can carry out TA without any working medical diagnosis or any medical history. A psychiatrist using TA would be expected to adhere to the guidelines expected of a psychiatrist, not those of a transactional analyst.

Dr. Hoffman believes that it is an absolute prohibition for a psychiatrist to give significant gifts to a patient. He concedes that smaller, inexpensive or symbolic gifts are acceptable and even appropriate in the context of a reparenting relationship. Gifts such as jewelry are always inappropriate, regardless of their intrinsic value since the patient will invariably interpret these as intimate. Dr. Hoffman warns of the danger of giving gifts to celebrate special occasions such as birthdays, since this then sets the expectation that these gifts will continue. This expectation increases the dependency and focus the patient has on his/her therapist. In the true transactional approach, an astute therapist will not fall into the trap of fulfilling all the patient's needs, but will help the patient find ways of serving his/her needs without reliance on the therapist.

It was suggested to Dr. Hoffman that the large value gifts and financial assistance provided by Dr. Leibl to Elizabeth McKenna over the course of the relationship served a therapeutic purpose of assisting her towards employment and ultimate independence. Dr. Hoffman rejected this interpretation and offered that these actions accomplished the opposite by creating and reinforcing dependency on Dr. Leibl. Dr. Hoffman observed that there are much better and more constructive ways of assisting patients to get financial aid that would assist them in progressing towards independence.

4. Inappropriate expressions of love and sexual content

There are abundant expressions of love and sexual content throughout the records that Dr. Hoffman reviewed. Although Dr. Leibl may argue that the "love" he was expressing was similar to that of a parent for a child, the clinical notes suggest anything but. In Dr. Hoffman's opinion, the term "love" should never be used by a therapist toward a patient as it will always be misinterpreted.

Addressing a patient as "sweetheart" or "honey" and signing cards and letters "love Ray" crosses into the suggestion of romantic or erotic love to a patient who is known to be confused about issues of boundary and identity. Other examples cited by Dr. Hoffman include telephone messages from Dr. Leibl to Elizabeth McKenna stating "I love you…nothing has changed between us" and "I love each and every part of you".

It was suggested to Dr. Hoffman during cross-examination that expressions of love or endearment are acceptable within the school of reparenting and that Dr. Hoffman chose to ignore this as an explanation. Instead, he came to the conclusion that they represented expressions of sexual or erotic love. Dr. Hoffman replied that he could not prove whether or not the comments were intended to be romantic or sexual, but this makes no difference. They were still inappropriate.

The photographs provided by Elizabeth McKenna show totally inappropriate intimacy. Combined with the gifts and social interactions, this intimacy transforms the professional relationship into a social and romantic one. Dr. Leibl was aware as early as 1977 that her parish priest had sexually abused Elizabeth McKenna. Dr. Leibl ought to have known that his own feelings of love for Elizabeth McKenna, and the patient's reciprocal feelings must be limited, interpreted or confronted to prevent a re-enactment of the patient's previous trauma and psychopathology.

Dr Hoffman feels that the telling of crude sexual jokes during therapy sessions or encouraging the patient to tell such jokes is totally inappropriate. He maintains that it is never appropriate for a psychiatrist to disclose his/her own personal sexual fantasies to a patient. In May 1989, Dr. Leibl discussed with Elizabeth McKenna "the anatomy of female genitalia, glorifying each part, and eliciting my liking for each detail". He went on to describe how he "caresses her skin" and compliments her "lovely, straight, feminine, intelligent, self-protecting veins". In October 1989 he recorded that he described his own penis in physical detail to Elizabeth McKenna.

With respect to the audiotape of a therapy session in November 1989, Dr. Hoffman observed that the apparent simulation of sexual intercourse with Elizabeth McKenna is totally inappropriate and can never be condoned. During therapy, it may be appropriate to discuss a patient's sexual fantasies or activities, but it transgresses all acceptable boundaries to enter into a role-playing scenario. The fact that the simulation appears to have been initiated by Elizabeth McKenna is totally irrelevant. It is also very clear from listening to this tape that Elizabeth McKenna was extremely intoxicated. In Dr. Hoffman's opinion, this makes Dr. Leibl's behaviour even more deplorable since her judgement is so obviously clouded by the drugs he administered.

In Dr. Hoffman's opinion, Dr. Leibl documented many forms of sexual impropriety and his sexual transgressions were prolonged and had severe impact on a vulnerable patient who had been a victim of previous sexual abuse in a fiduciary relationship.

5. Slapping, hitting or hurt to the patient

Dr. Hoffman cited several examples contained in Dr. Leibl's own clinical records of the physical force he used on Elizabeth McKenna and the injuries that he caused her.

Dr. Leibl justified this behaviour as "necessary" because she was out of control or because she gave consent. In Dr. Hoffman's opinion, patients cannot consent to be harmed in a therapeutic relationship because of the potential abuse of power by the therapist. Slapping, hitting or hurting a patient is always wrong in a therapeutic relationship unless it is done to protect oneself. In his own notes, Dr. Leibl acknowledges slapping and hitting Elizabeth McKenna, causing a black eye and pulling the severely intoxicated patient down a flight of stairs by the ankles. Any one of these behaviours should be considered an assault and totally unacceptable under any circumstances.

Under cross-examination, it was suggested to Dr. Hoffman that the incidents in which Dr. Leibl slapped Elizabeth McKenna or placed his hand over her mouth were planned and controlled therapeutic techniques and not simply acts of anger. Specifically, in the taped session referred to previously as "the slap", Dr. Leibl tried to intervene by telling Elizabeth McKenna to stop scratching herself. Dr. Hoffman saw this incident quite differently. In fact, as he points out, Dr. Leibl encouraged her to continue the inappropriate behaviour and to "draw blood". Defence counsel offered that this was an example of paradoxical therapy. Dr. Hoffman expressed shock at the suggestion that such a therapeutic technique could ever be used in such a violent manner. Dr. Leibl not only committed assault on his patient, but he persists in believing that it is acceptable to do so in the context of therapy. In Dr. Hoffman's opinion this demonstrates a horrible lack of insight.

6. Inappropriate Physical Contact

According to Dr. Hoffman, the physical contact described in Dr. Leibl's notes has never been acceptable behaviour for a psychiatrist over the time frame that Dr. Leibl treated Elizabeth McKenna. Examples of this inappropriate behaviour include lying on top of his patient, insisting on receiving a hug after each therapy session, repeated stroking or

bodily massage and embracing/cuddling as shown in the photographs. As indicated previously, these acts of physical intimacy will be misinterpreted by almost all patients receiving psychiatric treatment, but particularly so those who are vulnerable and confused by boundary issues.

During cross-examination, Dr. Hoffman was made aware of Elizabeth McKenna's testimony to the effect that she considered the physical contact to be non-sexual. Elizabeth McKenna represented the hugs, kisses and cuddling as similar to what a parent would offer to a child. Dr. Hoffman observed that a child would similarly interpret a kiss from a sexually abusing father as innocent. Dr. Hoffman stated that, regardless of Elizabeth McKenna's interpretation or belief, this does not make Dr. Leibl's behaviour appropriate or acceptable. Dr. Hoffman reiterated that a patient cannot consent to inappropriate treatment under any circumstance.

7. Inappropriate Social Contact

A psychiatrist can occasionally have social contacts in the community with very ill patients. Such outings would be rare, supervised and in a group environment, not on a personal or private basis. Occasional visits to a patient's home may be needed in an emergency. The psychiatrist must always be aware that a patient may misinterpret the social aspect of this therapy to indicate a more intimate relationship and this perception must be carefully managed.

Dr. Hoffman could not find any indications for a psychiatrist to conduct social outings with Elizabeth McKenna alone. Her descriptions of frequent and regular outings to restaurants and picnics, sessions in his car and sharing accommodations during a visit (depicted by Dr. Leibl as a consultation) to Florida, reflect a professional relationship without respect for boundaries. The photographs speak for themselves in demonstrating an inappropriate relationship even in a social context.

In cross-examination, Dr. Hoffman did not agree that there is controversy in the field of psychiatry about what constitutes boundary violations. He conceded that the Humanist

School of psychiatry espouses more flexible boundaries in which seeing patients outside of a typical therapeutic milieu would be considered acceptable. However, in Dr. Hoffman's opinion, such outside sessions, including home visits, must be medically necessary. He does not accept that Elizabeth McKenna going out to restaurants alone with Dr. Leibl is appropriate in the context of "social education" or "development of social skills". The fact that Elizabeth McKenna may appear to derive pleasure from the experience is irrelevant. In such situations, Dr. Leibl is inappropriately feeding Elizabeth McKenna's dependency, and naturally she would enjoy the experience.

8. Failure to Diagnose and treat the patient and the creation of Multiple Personality Disorder

Early in the professional relationship, Dr. Leibl recognized Elizabeth McKenna's tendency toward dependency and the misuse of alcohol. Nonetheless, he inappropriately managed these aspects of Elizabeth McKenna's treatment. To some degree, he exploited these tendencies so that she became totally dependent on him, emotionally and chemically.

Dr. Hoffman does not disagree with the concept of using regression or reparenting therapy in treatment of psychiatric patients. However, the goal of such therapy is to bring the patient back to reality and lead him/her ultimately to independence. Dr. Hoffman sees no evidence that Dr. Leibl ever attempted to help Elizabeth McKenna develop a healthy, adult emotional state. In fact, he was still feeding her with a baby bottle after four years of intensive therapy. In this context, Dr. Hoffman feels that reparenting therapy was inappropriately used as the basis for Elizabeth McKenna's treatment.

The use of medication such as Amytal to recover memories in MPD has been described, but only for brief, discrete periods. This use of Amytal has been discouraged for at least 15 to 20 years because it is well known that the drug frequently induces false memories. Furthermore, there is no integration after the drug wears off which is the essential goal of MPD therapy. Elizabeth McKenna's use of these enormous quantities of drugs and alcohol would invalidate any belief in her emergent "alters" and consequently the

diagnosis of MPD. This should have been well known to any psychiatrist practicing in 1989.

It is clear to Dr. Hoffman that Dr. Leibl created symptoms or “alters” related to a Multiple Personality Disorder by encouraging the patient to express multiple aspects of her personality while under the influence of alcohol or Sodium Amytal. Dr. Leibl should have acknowledged the patient’s suggestibility and been aware of his own encouragement for the patient to “fragment”. Aided by her intoxicated state, he managed to get Elizabeth McKenna to come up with more than 20 different “alters”, all with different names. This is a ridiculous construct for MPD, in which 3 or 4 different personalities may conflict in any one individual. Dr. Hoffman sees this as an obvious instance in which the patient is indulging her therapist by making up these “alters” in order to please him.

Dr. Leibl’s personal cards, addressed to the names of the various “alters” (e.g. “Elizabeth and the girls”) represents a totally inappropriate behaviour in a therapist treating a patient with purported MPD. The purpose of MPD therapy is to assist the patient to integrate his/her various personalities into one functional individual. To reinforce the fragmentation in this manner, particularly outside of the therapeutic relationship, could hope to accomplish only the opposite.

Dr. Hoffman was taken to a description of MPD from the DSM classification in which it states that anywhere from 2 to 100 alters are possible in MPD with the average being 10. Dr. Hoffman clarified his evidence by observing that, in his experience, the majority of MPD patients had 2 or 3 alters and a maximum of 10. In his opinion, 20 or more would be highly skeptical. Typically alters are “discovered” by the patient themselves and, usually outside of therapy. An example would be a patient who wakes up and finds he has obtained another driver’s licence in another person’s name. It is rare for an alter to emerge during a therapy session, and hard to imagine 2, 3 or more emerging in a single session as was the case with Elizabeth McKenna.

Dr. Hoffman agreed that Elizabeth McKenna could fit the diagnostic criteria for Borderline Personality Disorder. Dr. Hoffman accepts the suggestion that it is difficult for a therapist to maintain any BPD patient in a long-term therapeutic relationship. He concedes that there is no universally accepted treatment approach for BPD and holding patients in status quo may be the best measure of success.

9. Misrepresentation, Lying to others.

Dr. Leibl told Elizabeth McKenna that he had the permission of Witness C to use both Amytal and alcohol. Dr. Hoffman does not believe this for one moment. When Elizabeth McKenna raised concerns about the amount of drugs and alcohol involved in her treatment, Dr. Leibl told her that Witness C had been endorsing the treatment.

Dr. Leibl wrote two Letters of Reference for Elizabeth McKenna in which he falsely misrepresented her credentials. When a family member called Dr. Leibl concerned about Elizabeth McKenna's well-being, he responded that he did not know her whereabouts.

Counsel for Dr. Leibl challenged the impartiality of Dr. Hoffman in his assessment of Dr. Leibl's behaviour inasmuch as he had previously expressed a negative opinion of Dr. Leibl in respect of Dr. Leibl's treatment of Complainant B. Dr. Hoffman replied that he had fully disclosed his prior therapeutic relationship with Complainant B before agreeing to act as an expert witness on this case. He does not feel this prior knowledge in any way compromised his ability to impartially and objectively assess Dr. Leibl in his care of Elizabeth McKenna.

Summary

In summary, it is Dr. Hoffman's opinion that Dr. Leibl practiced poor medicine with many boundary violations over many years. He failed to meet the standard of care and treatment expected of a psychiatrist.

Dr. Leibl's notes contain irrefutable evidence of virtually every type of boundary violation that has been described in the literature. Dr. Leibl perpetrated these violations

using rationalizations from his own idiosyncratic elaborations of psychiatric and psychological theories.

Dr. Leibl's extremely poor clinical judgement demonstrates a complete lack of knowledge of the addictive nature of alcohol and barbiturates, a disregard for patient safety and comfort, an inability to control boundary violations, a failure to follow the advice of consultants and a continuing lack of insight into the unethical nature of his transgressions.

Overall, Dr. Leibl's treatment of Elizabeth McKenna fails to use the knowledge, skills and attitude that must be displayed by a competent psychiatrist and falls well below the acceptable standard of care.

Dr. Raymond Danny Leibl

Dr. Leibl graduated in Medicine from the University of Toronto in 1970 and received his certification in psychiatry in 1974 following a residency program rotating through several psychiatric institutions in Toronto. During his residency, he was impressed by the number of patients that seemed to be unresponsive to conventional inpatient therapy, particularly with drugs and ECT. In his experience, "talk therapy" was singularly unhelpful to a majority of patients. Consequently, he became attracted to a number of non-conventional therapies such as "Transactional Analysis" and "Gestalt" that could be broadly categorized under the "Humanist" school of therapy. By the end of his formal training, he became convinced that patients who did not respond to traditional therapy required more evocative modalities that could assist them in releasing their inner feelings.

When he opened his own practice in 1974-1975, he decided to focus on these newer methods in order to treat patients who had become treatment failures in traditional therapy. These methods included "Primal Therapy", "Gestalt Therapy", "Transactional Analysis" (TA), "Hakomi Therapy", "Psychomotor Therapy" and "Neurolinguistic Programming". He took a particular interest in "Reparenting Therapy", which is an offshoot of TA developed by Ms. Jackie Schiff, a non-medical therapist from California.

Dr. Leibl took a number of workshops and additional training in all these modalities, including spending time with Ms. Schiff at her clinic in San Francisco.

Dr. Leibl described reparenting as a therapy in which contracts are made between a patient and therapist whereby they agree for the therapist to intervene in the role of a contractual parent. The goal of treatment is to replace unpleasant or dysfunctional family experiences with positive, "corrective" experiences. Reparenting therapy uses techniques such as bottle-feeding and physical touch. The theory supporting these techniques suggests that many developmental problems occur around being fed, and it is often a helpful corrective experience for a therapist to feed and cuddle a patient in the same manner that a "sufficient parent" would do to an infant. Physical touch within the context of reparenting can include cuddling or cradling, hugging and kissing on the cheek or forehead as a form of greeting, stroking, and patients and therapists lying on top of one another. The overall therapeutic objective of all aspects of physical touch is to teach a patient that they can receive comfort from another person without threat. The weight of one person on another is a technique to assist a patient to deal with feelings of being uncomfortable, within a "safe and contained" environment. In Dr. Leibl's opinion, this technique is very helpful for patients who are unable to express their feelings in more conventional interactions. Dr. Leibl was adamant that the use of physical touch in reparenting therapy is never sexual, rather it replicates the normal interaction that would occur in a healthy family between parents and children and siblings with siblings.

Dr. Leibl described the various group therapies in his clinical practice that have been discussed previously. He defended the use of volunteer therapists in these sessions and offered that this is common practice in reparenting therapy. The volunteer therapists were generally non-medical individuals who had developed therapeutic skills through self-interest, specific training or having been patients themselves of Dr. Leibl.

Therapy with Elizabeth McKenna

When Elizabeth McKenna was initially referred to him, Dr. Leibl describes her as a desperately troubled individual who was full of inner pain and anguish. In his opinion,

she was an absolute treatment failure who had been seriously harmed and injured by her previous psychiatric experience. Dr. Leibl described Elizabeth McKenna as the "most disturbed and complex patient I ever saw". He believed that she fit the profile of patient who could be helped by reparenting and set out to plan her treatment under the broad frame of this discipline, incorporating other modalities as necessary. They established a reparenting contract in which Dr. Leibl would step into the role of contractual parent when necessary. From 1976 to 1982, Elizabeth McKenna attended group therapy as well as individual sessions with Dr. Leibl and, from 1982 onwards he continued reparenting therapy with her in individual sessions only. Dr. Leibl said that Elizabeth McKenna was the only patient he treated with reparenting techniques subsequent to 1982.

Referring to his clinical record, Dr. Leibl stated that his working diagnosis of Elizabeth McKenna after his initial assessment in 1976 was "Borderline Schizophrenia". He came to this diagnosis based on features such as "transient thought disorder", "extreme mood swings" and "impulsivity". In his opinion, he was consistent with her diagnosis throughout the period of her treatment and that "Borderline Schizophrenia" eventually evolved into "Borderline Personality Disorder" (BPD) as the DSM nomenclature changed. At the end of her therapy in 1996, Dr. Leibl stated that her diagnosis was BPD with sub-diagnoses of "Drug Dependency" and "Multiple Personality Disorder" (MPD).

In cross-examination Dr. Leibl was taken to 12 letters he had sent to other doctors and agencies during his treatment of Elizabeth McKenna. On these documents a variety of diagnoses are offered, but nowhere does the diagnosis of BPD appear. Furthermore, the diagnosis is never mentioned anywhere in his entire clinical record. The first reference to "Dissociative Personality Disorder" appears in the discharge summary for Elizabeth McKenna that Dr. Leibl admits he prepared at some time after the termination. Counsel for the College suggested to Dr. Leibl that he never made this diagnosis during his care and treatment of Elizabeth McKenna, rather that he constructed it after the fact in an attempt to justify many of his actions. Dr. Leibl denied this quite vehemently. He maintains that BPD is a "character or personality diagnosis" rather than a "clinical diagnosis", and all he would ever document in his record were the clinical diagnoses. To

the best of the Committee's understanding of his explanation, the "character diagnosis" in this case should be understood by his recording of clinical features that were indicative of such a diagnosis. When pressed on this issue, Dr. Leibl offered that Elizabeth McKenna had suffered terribly from being "labelled" as a Schizophrenic earlier in her life and, as a result had been rejected by her family, the community and friends. Dr. Leibl was aware that her records would be open for her to see, and so he felt it incumbent upon him not to apply a diagnostic label such as BPD that she would reject. He portrays his job as facilitating the creation of an appropriate relationship that includes not labeling her with a stigmatized diagnosis. For that reason, he never recorded the diagnosis of BPD anywhere in her record or in any correspondence related to her.

In Dr. Leibl's opinion, Elizabeth McKenna derived significant benefit from reparenting therapy. Through treatment she learned to see her parents more objectively and her ability to take care of herself continued to grow. Over the course of therapy her self-mutilation decreased and ultimately stopped. He perceives this to be a very positive outcome.

Dr. Leibl defends the use of the term "Sweetheart" as a form of address to a patient in the context of reparenting. This is a normal term of endearment for a parent to a child. In fact, he uses it himself in addressing his own grandchildren. In his opinion, it does not convey any romantic or sexual intent and Elizabeth McKenna did not receive it in that fashion. Dr. Leibl further stated that the name "Mommy-Daddy Ray" was a nickname chosen by Elizabeth McKenna after she had read an article about fathers in mothering roles. He believes this was a useful therapeutic strategy and not inappropriate in any way. When asked why he used this name to sign cards and letters to Elizabeth McKenna he offered that patients with BPD are unable to retain the image of being cared for. The card represents tangible evidence of the image for them to refer to. He similarly defended his practice of signing cards with "love, Ray" or "I love you" as consistent with parental or filial endearments.

With respect to conducting therapy outside of an office setting, Dr. Leibl feels this was appropriate and useful for Elizabeth McKenna. He went to her home when she was ill, which Elizabeth McKenna received as a positive experience in contrast to when she was

ill and ignored by her own family. He met her at the airport as part of a planned reconstruction of a previous traumatic event. He travelled with her on the subway to help her overcome her fear of enclosure, which he maintains evolved from being subjected to repeated ECT treatments. Meeting her at a restaurant was a planned therapeutic maneuver to provide her with "alone time" in a public place, moving from an adult-child interaction to an adult-adult one. Dr. Leibl claims the sessions in Barrie were necessary because Elizabeth McKenna would turn non-functional during a week of "inward thinking" during his absence. He maintains that they would sit in his car for about an hour and a half, sitting close to each other and touching while they talked. He denies there was anything sexual or romantic in these meetings. The Florida trip had many planned therapeutic purposes. At the time, Elizabeth McKenna was coming out of the most turbulent phase of the "MPD work" and it was useful for Elizabeth McKenna to organize herself to be effective socially in looking forward to this event. Also, Ms B was Dr. Leibl's consultant in MPD and she lived in Florida. The trip was planned to allow Elizabeth McKenna to meet and interact with Ms B. Dr. Leibl feels that Elizabeth McKenna derived significant therapeutic benefit from this trip.

On cross-examination, Dr. Leibl insisted that all therapy conducted outside of the office was done for a therapeutic purpose and denies that his contacts with Elizabeth McKenna were ever social. He was taken to two entries in the OHIP record where he billed for two hours of therapy on Christmas day in two different years. In his clinical record, there are no entries for either of these dates and, College counsel suggested this was because the so-called "sessions" were actually social visits to Elizabeth McKenna's home. Dr. Leibl denied this and suggested it was simply an oversight on his part not to record the session as a result of the hectic pace of the Christmas season. He also agrees with the OHIP record that shows that he billed three hours per day of psychotherapy, during the trip to Florida with Elizabeth McKenna in 1991.

Dr. Leibl acknowledges that he gave Elizabeth McKenna financial assistance on many occasions during her treatment period. He loaned her money, cosigned loans and paid her a monthly allowance when she was deeply into her MPD therapy. He maintains this is

very common practice in reparenting and completely appropriate. At times Elizabeth McKenna was unable to afford food or clothing and he observed that it is impossible to do any meaningful therapy in such a state. He pointed out that he provided her with items such as a Karaoke machine, typewriter and massage table, all of which were designed to assist her in gaining employment. He also paid for a law clerk course with similar intent.

Dr. Leibl also acknowledged giving gifts to Elizabeth McKenna on many occasions. He believes this is an essential part of the reparenting process to simulate the exchange of gifts that would occur in the context of a normal, healthy family environment around special occasions such as birthdays or other significant events. In July 1985 he presented her with a tiny cedar Hope Chest to celebrate the fact that she had just gotten a job. Dr. Leibl describes this sort of gift as a "transitional object" that assists the patient to the belief that "my therapist wants to see me succeed". Similarly, Christmas was a particularly significant event for Elizabeth McKenna because it had been a very traumatic experience for her with her own family. Recreating Christmas in a positive sense was a very powerful therapeutic experience for her. Dr. Leibl maintains that 90% of the gifts he gave Elizabeth McKenna were less than $5 and, of the rest, the most expensive was $35 to $40. He claims that he only gave her two items of jewelry over the entire course of the relationship and the most expensive was $8. During cross- examination Dr. Leibl was taken to Elizabeth McKenna's evidence that he had given her numerous rings as gifts. Dr. Leibl denied that these rings represented jewelry since they were simply inexpensive trinkets. He also confirmed that one Christmas he gave Elizabeth McKenna $150 and another time an airplane ticket to Florida. He acknowledged that he represented these as Christmas gifts at the time, but in fact they were exceptions because they were intended to "support her employment". He admitted that he gave her an old sweater of his. He denies giving her his high school ring. He denied ever giving her an answering machine and does not recall ever giving her a briefcase.

Dr. Leibl recalls using the "rope technique" with Elizabeth McKenna on a few occasions. He does not recall ever taking her outside the office while connected by the rope. He believes this to be an effective therapeutic tool to deal with a patient's withdrawal. He

claims that Elizabeth McKenna actually asked for it on occasion and that she derived comfort from it.

Dr. Leibl describes lying on top of patients as an element of primal therapy. He claims that he used it in only a narrow and limited way with Elizabeth McKenna and felt it was an effective way of getting her to talk. He states that there was absolutely no sexual intent and he believes that Elizabeth McKenna never considered it to be sexual.

Massage therapy was also a part of his treatment of Elizabeth McKenna. Dr. Leibl learned this technique during his residency and feels it is a very effective method to help release feelings by relaxing muscle tension. With Elizabeth McKenna he exclusively used it on her neck, upper back and shoulders and only over clothing. He vehemently denied ever massaging any other part of her body. In cross-examination he was taken to one of his clinical entries where he recorded that he massaged her “calves, back and buttocks”. Dr. Leibl then recalled that he had used his elbows to massage Elizabeth McKenna’s buttocks, taking great care to ensure he was not doing it in any intimate fashion.

Dr. Leibl went on to describe a technique he had learned in a workshop which postulates that a patient’s character could be expressed by examining his/her body posture. He recalls using this once with Elizabeth McKenna where she removed her shirt, leaving on her bra, while he placed his hands on her ribs to observe and assess her body posture. Dr. Leibl continued this for approximately 15 minutes and discontinued it when Elizabeth McKenna expressed discomfort with the procedure. He denies any sexual intent to this activity.

During therapy, Elizabeth McKenna disclosed to Dr. Leibl that she believed her mother had suffocated her younger brother. As a result she experienced panic attacks during which she feared she would not be able to breathe. Dr. Leibl admits to using the technique of placing his hand over her mouth to “simulate the terror” of suffocation within a safe environment. He maintains that Elizabeth McKenna understood that she could terminate the process at any time by tapping three times anywhere on his body. He

conceded that this escape contract is nowhere documented in his clinical record, but insists that it was well understood by Elizabeth McKenna. According to Dr. Leibl, Elizabeth McKenna became safe with this procedure and they were able to use it effectively as a tool to move on to the next stage of work.

One of the therapeutic interventions used in the reparenting group was the "corner contract". Dr. Leibl explained this as a feature of reparenting and analogous to the "time out" parents often invoke with children when they are acting out or misbehaving. He denies that it was intended to punish. In the particular instance raised by Elizabeth McKenna in her evidence, Dr. Leibl maintains that she was "escalating" during a weekend session and threatening to leave. Assisted by two or three other patients, Dr. Leibl "walked her over to the corner and restrained her there until she relaxed". He does recall her yelling to be released, but they continued to restrain her there "for her own good". He thinks she was restrained for a period of approximately 1-½ hours. He admits that he restrained her by holding her arm behind her back and when she tried to resist, he would "raise her arm very gently until she said ouch". He denies that she was ever restrained again. In fact he offers that she would often go to the corner quite willingly and derived comfort from the technique. When it was suggested in cross-examination that he had used this technique as a means of asserting control over Elizabeth McKenna, Dr. Leibl countered by suggesting that she was actually trying to gain control over him by causing injury to herself. In Dr. Leibl's response to the College in January 1998 he stated, "Her allegation that with the assistance of some four other male patients, etc., does not remind me of anything that I recall doing". Dr. Leibl was unable to explain the inconsistency between this statement and his evidence on the matter.

Dr. Leibl provided the Committee with a document in which he summarizes the "Stages of Therapy of Elizabeth McKenna". The balance of Dr. Leibl's evidence will be discussed within the framework of these stages.

Stage 1: 1976-1981

- *Initial Phase*

- *Golden Years*
- *Participating in highly structured group and individual reparenting theory*
- *Significant gains*

At the outset of his treatment with Elizabeth McKenna, Dr. Leibl conceded that he had been made aware of her relationship with the priest through the autobiography she had produced for Dr. Verny. He maintains that he knew only that the relationship had been romantic and had ultimately progressed to being "sad". He insisted that he was not aware that the relationship was sexual at that time. The Committee noted that Dr. Leibl stated in a letter he wrote in support of Elizabeth McKenna's suit against the priest (November 28, 1990), "She told me early in therapy about sexual activity she had with this priest. I am afraid like too many men at that time I was uncomfortable with the implications of this sort of occurrence". When taken to the autobiography, in which Elizabeth McKenna sets out in explicit detail the nature of the abusive sexual relationship with the priest, Dr. Leibl conceded that he "probably" did know about the sexual aspect of the relationship. However, he did not know what significance it had, if any, on Elizabeth McKenna's condition. He made the assumption that Elizabeth McKenna had successfully "grieved the relationship". Since she did not raise it again until much later in the course of therapy, he assumed it to be of little importance in terms of planning a therapeutic strategy. During cross-examination he stated that in his opinion the sexual relationship with the priest had "no impact" on her psychiatric history. When College Counsel pointed out that Elizabeth McKenna had included this event as the first item under her heading of "Psychiatric History", Dr. Leibl was asked if this did not suggest that it was of significant importance to Elizabeth McKenna. Dr. Leibl disagreed with this suggestion and was of the opinion that Elizabeth McKenna had a "sense of completion" about it. He reasons that if the relationship truly had been that significant, then she would have brought it up at sometime during this stage of her therapy and she did not. Dr. Leibl was taken to Elizabeth McKenna's "Re-application for service" dated February 1977 which was completed after she had temporarily been terminated from Dr. Leibl's practice. In this document she states that the worst thing that ever happened to her was "falling in love

with [the priest] and being fat". Dr. Leibl admits that he did not attach any significance to this information.

Dr. Leibl was asked to provide further information regarding "the slap" which occurred during an individual therapy session in 1978 and has been referred to at some length in preceding evidence to this hearing, including an audiotape of the actual exchange between Elizabeth McKenna and Dr. Leibl.

Dr. Leibl explained that Elizabeth McKenna would frequently withdraw during sessions, and then "escalate" her behaviour, becoming agitated, speaking sarcastically and essentially disrupting the session. In the incident in question, he claims that she began slapping herself on the face, to which he responded by commanding her to "sit down and stop hitting yourself". When she persisted, he told her to "Hit yourself harder…now draw blood". Dr. Leibl describes this as a therapeutic technique known as paradoxical therapy in which the therapist suggests to a patient that he/she continue in an inappropriate activity in the expectation that he/she will then stop as part of the inherent rebellious behaviour toward the therapist. At this point, Elizabeth McKenna began to scratch herself violently and gouge her cheek. Dr. Leibl then gave her a single slap "with a velocity calculated only to be hard enough to stop her". He denies the slap was hard enough to inflict any injury and he feels the use of this technique was both appropriate and useful since it successfully stopped the patient from further self-harm. The Committee took note of the fact that Dr. Leibl stated in his own clinical note that, following the slap, he observed an "inch long bruise where my slap on the cheek had bruised the skin".

During cross-examination, Dr. Leibl conceded that slapping Elizabeth McKenna was wrong, but only in retrospect. At the time he thought it was appropriate and, in fact, essential. Now, he considers himself more experienced and would be able to deal with a similar situation in a more effective manner.

Dr. Leibl reiterated his attempts to get Elizabeth McKenna to stop before he intervened by force. He restated that he "commanded" her to sit down and told her to stop. In

addition, he put his hands around hers in an attempt to prevent her from continuing. He references his own clinical note in support of the fact that he made the above statements. At this point, Dr. Leibl was asked to review the transcript of the audiotape made of this particular session that the Committee had heard earlier during the proceedings. It was quite clear from the tape that at no point during the exchange between Elizabeth McKenna and himself did Dr. Leibl ever tell her to sit down or to stop hitting herself. Dr. Leibl refused to accept that there was any inconsistency in his evidence about this matter. He stated that "it may not be on the tape, but (I told her to stop) in a non-verbal manner, a technique which is much more powerful". He then elaborated to explain that his command to "hit yourself harder" should have been understood by Elizabeth McKenna to mean "please stop".

Dr. Leibl stated that he was extremely upset when Elizabeth McKenna started scratching herself and inflicting severe trauma to her face. He insisted that he had never seen her do such a thing before and was quite beside himself about how to deal with the situation effectively. He was then asked to review a paragraph in his letter to the College dated January 18, 1998 in which he states, "I had seen Elizabeth McKenna many times before turn inward in a state of frenzied dismay and scratch her own face furiously, leaving long, bleeding scars. In the past, unable to let her sit there while she repeatedly tore into her own facial skin until her cheeks were raw and bleeding, I would put my hands around her wrists and try and force her to stop". When asked how he could rationalize this statement with his prior evidence, Dr. Leibl was unable to formulate any response other than the fact that he believes his statement to the College to be true.

Dr. Leibl accepted that he was aware of Elizabeth McKenna's fear of being beaten and her particularly evocative memory of being slapped and hurt by her father at the age of 15. College counsel asked him why he would continue to slap her on repeated occasions having this knowledge of her past history. Dr. Leibl responded quite angrily that he never slapped her, he only administered "gentle pats" that could never be construed as "hitting or slapping". Even after he was taken to several entries in his clinical record that document the fact that he slapped her, he vehemently denied that this ever happened. At

one point, Dr. Leibl cautioned College counsel that he would no longer answer any questions about this matter unless she refrained from the use of the word “slap” and substituted the word “pat”. He was then taken to other entries in which he used the term “slap” and “pat” within the same note to reflect two different and distinct actions. In spite of this, he remained adamant that he never slapped Elizabeth McKenna again after the initial incident. The Committee took note of several entries in the medical record. One contains the statement, “slapping her as I had done, but I found that 2 slaps made things worse (July 20, 1978)”. On October 1, 1989: “Only after she hit herself did I understand that I could slap her, a little harder at first, and then gradually convert it into steady and rhythmic patting.” On November 14, 1989: “I tried to engage her attention by slapping her face” and, “I slapped her a few times a little too hard. My hand stung a bit.”

For all of these examples cited where Dr. Leibl records that he slapped her, he denies that it actually happened. He will only concede that he gave “light pats” on the cheek and that this represents a totally appropriate therapeutic technique within the reparenting school. When asked why he would use the term “slap” in his records if what he meant was actually “pat”, he replied that “pat” would not have been expedient in this kind of work. That is why he used the word “slap” to convey, “pat”. He purports that his behaviour sets out to correct bad parenting by substituting good parenting and the “pats” represent a “corrective experience” for the patient.

Dr. Leibl acknowledged that physical touch was an integral part of reparenting therapy during this stage of the treatment. When asked whether “hugging” was a regular part of therapeutic interactions, he declined to answer, stating that he did not “hug” patients and that the term “hug” can only be interpreted in the context of therapy. He would concede that he would “cradle” patients as a parent would a child, and that cradling was a subcategory of “hugging”. He suggested that College counsel was attempting to distort his testimony by using the term “hug” in the romantic context. For this reason, he refused to acknowledge that he used hugs as part of his treatment, despite the fact that his clinical record is replete with descriptions of his “hugging” Elizabeth McKenna and she him. At one point he digressed into an explanation to the Committee about the 20 different types

of hugs described in the psychiatric literature. The Committee admits to being unable to follow the logic of his evidence in this matter. It seemed particularly odd that Dr. Leibl would totally reject the use of the term “hug” when he uses it over and over again in his clinical notes and indicated in his prior testimony that it was an accepted modality in the Humanist school of psychotherapy. Also, in his letter of January 16, 1998 he told the College that “Hugging and holding is a normal part of reparenting psychotherapy”.

Dr. Leibl was asked to review the collection of photographs that is an exhibit to this proceeding. The Committee views these pictures to be objective evidence, which may be open to limited interpretation, but essentially they stand on their own. In several of these photos brought to Dr. Leibl’s attention, it is quite clear that he has his arms around Elizabeth McKenna and she around him. Dr. Leibl refused to accept that these examples demonstrated either hugs or embraces. He contends that they were all “poses” and would only accept that in some of the pictures he appears to be “cradling” Elizabeth McKenna in the accepted context of reparenting. He vehemently denies that these photographs depict any sexual or romantic interaction. He also denies that they indicate any social interaction despite the fact that one is obviously taken in a bar, one in a swimming pool, one on a beach and another lying on a blanket in a public park.

Summarizing this stage of treatment from 1976-1991, Dr. Leibl believes that Elizabeth McKenna made a significant amount of progress. She became psychologically more sophisticated and was able to better examine her own thoughts and feelings. She developed more control over her self-mutilation. At the end of this stage, Dr. Leibl felt confident that their work together would finish in a few more years.

Stage 2: 1982-1988

- *Mother dies July 1982*
- *Group reparenting stops*
- *Resumption of relationship with the priest in 1983*
- *Gains stall*

In 1982, Dr. Leibl stopped doing group reparenting as he found it very draining and he wished to pursue other forms of therapy. Elizabeth McKenna was angry about this decision and as a result, Dr. Leibl made special arrangements to continue individual reparenting therapy with her. He recognized that she continued to suffer from low self-esteem and depression and that they had not "finished the work".

Dr. Leibl was asked to comment on the "pooh-bag" which was described by Elizabeth McKenna in her testimony and is an exhibit to this hearing. He recalled that Elizabeth McKenna suffered intermittently from chronic diarrhea and incontinence. On one occasion she arrived at his office having soiled herself during the trip from home to the clinic. She was very embarrassed and humiliated by this condition. Dr. Leibl prescribed imodium for her, which helped to a certain extent, and he referred her to a specialist for evaluation of the underlying problem. He admits that he constructed the "pooh-bag" and presented it to Elizabeth McKenna at one of their sessions. He intended it to be a temporary device to "help her over this embarrassing stage" and allow her to continue with her treatment. Dr. Leibl believes that Elizabeth McKenna was "delighted" with this because it demonstrated his concern for her problem and allowed her to "keep an optimistic view that the problem was solvable".

During this period, Elizabeth McKenna did not disclose to Dr. Leibl that the priest had attended her mother's funeral, nor that she had resumed the sexual relationship during the priest's periodic visits to Toronto. In Dr. Leibl's opinion, this presented a serious distortion to the therapeutic relationship. Because of the non-disclosure, he was unable to work on the single issue that he saw as being of fundamental importance to her persistent distress. Furthermore, he believes it significantly lengthened the duration of therapy. Throughout this "second stage" of therapy, Dr. Leibl availed himself of several informal consultations with specialists in various "Humanist" disciplines. He claims that he did this because he did not have a clear perspective of what was really going on in Elizabeth McKenna's therapy. He now attributes this lack of clarity to the withheld information about the priest. The Committee could not help but be puzzled by this entire line of

reasoning, in view of Dr. Leibl's previously expressed opinion that the sexual relationship with the priest was of no consequence to her psychiatric history.

At the end of this stage of therapy, Dr. Leibl concedes that the "end was not yet clearly in sight". He is concerned because, for Elizabeth McKenna "the world has lost its rosy glow".

Stage 3: 1989-1993

- *Disclosure of relationship with the priest*
- *MPD diagnosis*
- *Trance induction with Sodium Amytal and alcohol*
- *Some progression in reintegration*
- *Commencement of litigation against Church and the priest in 1992*

Dr. Leibl first learned about the resumption of Elizabeth McKenna's relationship with the priest on March 3, 1989. However it was only several months later that Elizabeth McKenna was able to divulge the extent of the sexual abuse that was the focus of their interaction. For Dr. Leibl, this explained why the therapy had slowed down from 1981 to 1989. There were "parts" of her, which weren't available for psychotherapy and this subsequently led him to make the diagnosis of MPD. Dr. Leibl admits he knew little about this condition in 1989. He subsequently read two textbooks on the subject as well as consulting two other psychiatrists who had experience in treating MPD patients. Once the diagnosis was made, he embarked on a plan of treatment to bring forward into her consciousness the split off parts of her inner self ("alters") in order to integrate them. He denies that he created any of these alters himself. He simply assisted Elizabeth McKenna to bring these fragments of her subconscious to the surface.

Initially, he attempted trance induction through use of hypnosis. He assessed his own skills in this area as those of an "advanced beginner" and, ultimately, his efforts were unsuccessful. Progress in therapy was "blocked" and Elizabeth McKenna was becoming increasingly frustrated. At this point he decided to move to Sodium Amytal (Amytal).

Dr. Leibl had obtained some limited experience in the use of Amytal interviews during his residency training. He was also aware that Elizabeth McKenna had undergone two Amytal interviews during her hospitalization at Homewood. According to Dr. Leibl, the Amytal interview is intended to bring a patient to a point of being able to comfortably express his/her inner feelings that would otherwise be blocked by inhibitions.

Dr. Leibl administered Amytal intravenously to Elizabeth McKenna frequently over the next several months, until eventually her veins "dried up". At this point he sought another agent to assist in bringing about a trance state. He had read an article from a text by Dr. Ericson called "Innovative Hypnotherapy" wherein Ericson recommended the use of alcohol for this purpose. A copy of this article was produced for the Committee's perusal and it was noted that it was written in 1944 and discussed the use of alcohol and other drugs in recovering memory from shell-shock victims in WW2. Dr. Leibl believes that Elizabeth McKenna was very similar to the patients that Dr. Ericson had treated. Very soon he began to combine the alcohol with Amytal.

Dr. Leibl conceded that, in retrospect, it was an error to use Amytal and alcohol to the extent that he did. His evidence was somewhat confusing on this point. He acknowledges that he was aware of Elizabeth McKenna's previous problems with addiction and now recognizes that he should not use drugs like this in a patient like her. However, he feels that the use of intravenous Amytal was justified, only he should have stopped after approximately 12 to 24 sessions. He also concedes that he should not have resumed the use of Amytal and alcohol following Elizabeth McKenna's treatment for Amytal addiction at ARF in 1990. He continued to use it because, in his opinion, the "benefits outweighed the cost". He feels he was blinded by what he felt were sincere attempts on his part to help Elizabeth McKenna. He claims that Elizabeth McKenna is the only patient to whom he has ever administered or prescribed either Amytal or alcohol throughout the entire duration of his practice.

In cross-examination, Counsel for the College attempted to clarify his evidence. Dr. Leibl reiterated that the use of Amytal was appropriate, but not to the extent that he did. When asked if he believed the use of alcohol was wrong, Dr. Leibl answered quite evasively and the Committee does not believe he ever did answer this question. He did admit that the use of Amytal and alcohol together was wrong, but qualified his answer by stating that it was "correct in a moral sense". He agreed as well that the use of Amytal as an anxiolytic drug was inappropriate. He offered as explanation that he was an inexperienced but enthusiastic young psychiatrist at the time, whose overriding compassion for his patient impacted his judgement. The Committee could not help but observe that Dr. Leibl would have been in his mid forties at this time and had been a qualified psychiatric specialist for more than 13 years.

Dr. Leibl accepted that he had a professional responsibility to familiarize himself with the use of a drug such as Amytal before using it. He thinks that he consulted Goodman and Gilman's textbook on pharmacology prior to administering it to Elizabeth McKenna. He is uncertain whether or not he consulted the CPS.

Dr. Leibl claims that he was aware that the maximum daily dose as indicated in the CPS was 60 to 300mg/day orally in divided doses. He was also aware that the usual hypnotic dose was 200mg and 10 times the hypnotic dose was considered to be a lethal overdose. When it was pointed out in his clinical record that he frequently gave in excess of this lethal dose intravenously during a single session, he replied that it was appropriate because "people learn how to metabolize Amytal more effectively over time" and that Elizabeth McKenna had "incredible drug resistance".

Dr. Leibl was taken to an excerpt from the CPS wherein it states that, for patients combining alcohol with Amytal, "serious toxicity can result at lower barbiturate levels". When asked whether the combination of high doses of Amytal and alcohol would have put his patient at risk, he replied, "I won't accept that. I always kept Elizabeth McKenna's safety in mind". When encouraged to explain how he did this he replied that he "watched her closely and monitored her levels" (of consciousness). He elaborated that

"according to the statistics, when properly monitoring levels of consciousness, the risk to the patient is zero". Furthermore, Dr. Leibl maintains there is no such thing as "sudden" suppression of the Central Nervous System. As long as he "titrated" the dosage of drugs he administered, then he was assured that she would be "OK".

Dr. Leibl stated that he informed Elizabeth McKenna of the risks of Amytal prior to initiating therapy. When pressed as to whether or not he advised her of the fact she could die as a result of its use, he responded that this would not have been necessary because the risk of death from such treatment is simple common knowledge.

Almost always, Dr. Leibl ordered the Amytal tablets from the pharmacy and dispensed them to Elizabeth McKenna himself. He does not see anything wrong in that practice. He was taken to a clinical entry dated April 21, 1990 in which he records, "She is using up to 12 x 200mg Amytal per day again, and is still functional—amazing". He conceded that he failed to document adequately the amounts he was actually dispensing to her and that consequently, he really did not have a clear picture of what she was actually taking. On March 18, 1990 Dr. Leibl wrote, "she using Amytal now as both anxiolytic and sedative, about 100 of 200mg per week". When reminded that this works out to more than 14 tablets a day, Dr. Leibl concluded that his entry must have been an error, since he is sure she was never taking more than 12 tablets a day.

When it was suggested that he should have had the pharmacy dispense the medication to Elizabeth McKenna so that there would be a record of how much of the medication she actually received, Dr. Leibl did not agree. He stated that since he was the only doctor ordering Amytal from Witness F's pharmacy at the time, the record of Amytal dispensed by Witness F during this period (which has been entered into evidence) represents the totality of what he subsequently dispensed to Elizabeth McKenna.

The Committee was disturbed by Dr. Leibl's demeanour during his cross-examination on the Amytal/alcohol issue. While admitting that his actions were wrong in a qualified sense, he appeared indignant that anyone could suggest that he was putting his patient at

any risk by his behaviour. While admitting some level of wrongdoing, he certainly did not demonstrate any remorse for what had happened.

In June of 1990, Elizabeth McKenna was admitted to ARF for treatment of Amytal addiction. Dr. Leibl refused to accept the suggestion that, prior to her admission, she had been expressing concerns about her continuing use of Amytal and a desire to get off the drug. The transcript of a taped therapy session was then reviewed in which the following exchange takes place:

Elizabeth McKenna: “I really want to get off the Amytal…all the drugs”
RL: “That’s a good idea, but take your time.”

Dr. Leibl interprets this conversation to suggest that it is his recommendation that she come off the Amytal. He alleges that Elizabeth McKenna is simply attempting to stretch the boundaries of the therapy session by making the comment in the hope that Dr. Leibl will extend the time allotted to her. This was offered by Dr. Leibl as further evidence to suggest his diagnosis of BPD. For his part, he maintains that “That’s a good plan” is a calculated therapeutic intervention to “avoid getting caught in the bait” being proffered by Elizabeth McKenna. His comment, “take your time” was intended to be an embedded hypnotic command, which is not to be taken literally.

Dr. Leibl did not accept the proposition that Elizabeth McKenna’s memory problems at this time were due to the use of Amytal and alcohol. Rather, memory loss is a prominent feature of MPD. He continued to take this position even when taken to an entry in his own record where he speculates as to whether the Amytal could be contributory. After this time, he acknowledges that he continued to prescribe Amytal, knowing full well that she was combining them with alcohol at home. Dr. Leibl felt that he had no alternative because if he didn't provide her with the Amytal, she would resort to more alcohol in order to deal with her anxiety.

At one point after Elizabeth McKenna had been without any Amytal for over 24 hours, she collapsed in the street outside of her apartment. Dr. Leibl arrived at the scene shortly thereafter. A witness to the event described what he believed was a seizure. When asked if he believed the seizure to have been caused from Amytal withdrawal, Dr. Leibl replied that it was not actually a seizure, but rather an episode of postural hypotension. Furthermore, in his opinion, Elizabeth McKenna was in no danger of a withdrawal seizure at this time because she had only been off the drug for 24 hours. Dr. Leibl was asked to review two letters in his file in which he describes the aforementioned event as a "convulsion", once in a referral letter to ARF and another in a letter to Elizabeth McKenna's friend Witness B. Dr. Leibl replied that he might have believed it to be a convulsion at the time, but no longer holds that opinion.

In that same referral letter to ARF, Dr. Leibl states, "She (Elizabeth McKenna) vowed to embarrass me and is using the Amytal problem for that purpose". Dr. Leibl acknowledges that he did not disclose in this letter the fact that he was giving her high doses of intravenous Amytal on an almost daily basis for several months. He admits that this would have been of assistance to the physicians treating Elizabeth McKenna and was misleading. He agreed that he wrote this letter to protect himself and that if Elizabeth McKenna told the doctors subsequently about the iv Amytal, she might not be believed as a result of the comments in this letter.

After being discharged from ARF in the second week of June 1990, Elizabeth McKenna had resumed using alcohol by June 25, according to Dr. Leibl's clinical note from that date. Similarly, he records that he had resumed giving her Amytal by July 11, 1990. So, despite all his supposed concerns, Dr. Leibl conceded that he resumed the drug therapy just over a month after she was discharged from treatment for Amytal addiction. He admits that he shouldn't have done this but maintains that he did so with the misguided but expressed intent to help her get on with her therapy. He agrees that he continued to dispense and Elizabeth McKenna continued to use Amytal from July 1990 until November 1996 when Dr. Leibl terminated her from his practice.

By 1992, Dr. Leibl was aware of the problems Elizabeth McKenna was experiencing as a result of her use of Amytal and alcohol, specifically sedation, frequent falls and "social discontrol". He acknowledges receiving advice from Elizabeth McKenna's family physician, Witness D, recommending that he discontinue use of the drugs and transfer care of Elizabeth McKenna to another therapist. When asked if he had in fact agreed to stop the medications as set out in the letter he sent to Witness D in response to her concerns, he replied, "Possibly. I was vacillating at that point". However, he did not stop. It was suggested that he then recommended that Elizabeth McKenna transfer care to another family physician in order to protect himself from Witness D's censure. Dr. Leibl denied this. He maintained he had no option but to refer Elizabeth McKenna to a different Family Physician since Witness D had ceased providing medical care for Elizabeth McKenna in order to adopt the role of critic of Dr. Leibl's work. In addition to Witness D's advice, Dr. Leibl agreed that he had received similar advice from Witness E. In retrospect, he now wishes he had accepted their counsel.

Dr. Leibl described to the Committee the structure for the Amytal/alcohol sessions. He divided the time of each session into thirds. The first third was spent on trance induction (administering the drugs), the second encompassed the actual therapeutic "work", and the third was devoted to "recovery" to ensure that Elizabeth McKenna was in a fit state to return home safely. On the evening of January 11, 1994, Dr. Leibl alleges that Elizabeth McKenna "got drunk on my premises". Although he acknowledged that it was his bottle of Vodka from which she drank, he refused to agree that he provided it to her since "she broke the agreement with me and continued to drink outside the parameters of the therapy session". He maintains that it became too late to continue therapy, a little into the "third third" of the session. Elizabeth McKenna became belligerent and threatening and demanded that Dr. Leibl leave her the Vodka bottle so she could continue to drink at home. He agreed to do this on the understanding that she would go home where she would be safe and not continue to drink on his premises. On cross-examination he was asked whether in fact he threw the bottle at Elizabeth McKenna and left the room. He denied this, but accepted the fact that he may have thrown it "towards" her. He subsequently retired to his living quarters upstairs and shortly thereafter, Elizabeth

McKenna came banging on his door demanding that he continue the therapy session. He refused, and when she continued to stagger and stumble about the house, he called the police. When the police arrived, Elizabeth McKenna told them that Dr. Leibl had fed her alcohol, assaulted her and raped her. The police suggested that it would be in her best interest to stay where she was rather than have them take her away to a detox facility, provided that Dr. Leibl would arrange to take her home once she sobered up. By the time the police were ready to leave, Elizabeth McKenna was lying on the second floor landing, apparently unconscious. At that point, Dr. Leibl states that he feared for her safety on the landing and gently slid her down the stairs, pulling her by her feet. He cannot remember whether or not the police were there at the time, but states that they did not assist him in moving her.

During cross-examination it was pointed out that Dr. Leibl made no mention of pulling Elizabeth McKenna down the stairs in his clinical note describing the session. A subsequent, much more detailed note purporting to be a description of the events of that evening appears later on in the clinical record and apparently out of sequence. It was suggested that Dr. Leibl created this note sometime after the fact, and only after Elizabeth McKenna had called him expressing her concerns about what had happened. Dr. Leibl said he did not know for certain, but he believes he created the note contemporaneous to the actual event. He denies the fact that she sustained any injuries as a result of his actions. He does not recall ever examining her for bruises. He acknowledges that on the next occasion he saw her, she had a large bump on the back of her head, but vehemently denied that this could have been caused by his pulling her down the stairs since she went down “on her stomach”. However, in a subsequent clinical note, the Committee observed his comment, “we were both doing our best, therefore the bruises which occurred were accidental”.

Dr. Leibl was emphatic that he was not responsible for Elizabeth McKenna’s state of intoxication on that occasion. He insists that they had a contract which precluded her from drinking outside of the structure of the trance induction stage of the therapy session.

In his clinical note for the following session he wrote, “we both shared our remorse that she broke our agreement”.

In his letter to the College on January 16, 1998 Dr. Leibl related the preceding incident as follows: “She then tried to leave and she fell on the stairs as she did so. I judged that in this condition it would be dangerous for her to do so. I attempted to restrain her from leaving, but she slid down the stairs, bumping as she went”. When confronted with this clear misrepresentation of the truth, Dr. Leibl simply shrugged his shoulders and did not seem to consider the matter of any import.

Under cross-examination, Dr. Leibl admitted that he had combined reparenting therapy with the use of Amytal and alcohol and conceded that this was wrong. However, he also acknowledges this was not the opinion he expressed in the above referenced response to the College.

During trance induction Elizabeth McKenna began to “recover memories of sexual and emotional abuse”. She recalled incidents involving a boarder, her babysitter, her brother-in-law and especially her father. Later on, she began disclosing the abusive relationship with the priest. According to Dr. Leibl, it was difficult for Elizabeth McKenna to discuss sexual matters and particularly hard for her to acknowledge that members of her family even possessed sexual parts to their anatomy. To assist her in coming to terms with this, Dr. Leibl presented her with sexually explicit dolls. He related that Elizabeth McKenna would look at them and then “offer her feelings about the genitalia”. Dr. Leibl believes this was very helpful for her. He also used the detailed diagrams from the textbook of anatomy for the same purpose. He wanted to give her an alternative experience to her childhood in which genitalia could be discussed in shame-free terms.

Dr. Leibl was taken to a clinical note in 1991 wherein he records that he described his own penis to Elizabeth McKenna in some detail. He responded that this was an exaggeration and that he only did so in a “limited sense” to show Elizabeth McKenna that a man’s penis was not always threatening, but could be perceived simply as an organ of

function. He believes this technique helped Elizabeth McKenna to “separate himself as not representative of men who are perpetrators”. He was similarly asked to explain the comments made in another note in which he purports to describe the details of a woman’s genitalia and his “liking for it in every detail”. Dr. Leibl explained to the panel that this was an Ericsonian technique that was “very useful to Elizabeth McKenna”. Unfortunately, the Committee was unable to understand his explanation or how he perceived it to be helpful for Elizabeth McKenna.

Dr. Leibl was asked about the therapy session in November 1989 of which there is an audiotape record but no corresponding entry in Dr. Leibl’s clinical record. Dr. Leibl conceded that he administered Amytal during this session, but was not sure if Elizabeth McKenna had also consumed alcohol. He recalls that he was concerned that something of a sexual nature was disturbing her and he represents this incident as an example of psychodrama in which he was trying to elicit her subconscious feelings. He denied that he set out to try to elicit memories of sexual abuse by Elizabeth McKenna’s father. Dr. Leibl initiated the psychodrama by placing his finger on Elizabeth McKenna’s thigh. The therapeutic purpose of this maneuver is to evoke memories of people going towards that part of her body that sexual abusers would. Dr. Leibl conceded that a patient must consent to this type of physical touch and must be capable of giving consent. At a minimum, the patient must not be impaired by drugs or alcohol. He emphasized that the tape clearly shows that he did ask her permission to place his finger on her thigh. College counsel asked Dr. Leibl whether he believed that Elizabeth McKenna was impaired by drugs and/or alcohol at the time this incident occurred. Dr. Leibl replied that she was “nowhere near impaired”. Then the audiotape was replayed for both Dr. Leibl and the Committee to review. In the Committee’s opinion, Elizabeth McKenna is extremely intoxicated during the entirety of the taped exchange. This was also the opinion given by Dr. Hoffman after his review of the audiotape. Elizabeth McKenna’s speech is so slurred as to be barely intelligible and there is simply no other logical explanation for this. Dr. Leibl, however, was incensed by the suggestion that she was intoxicated. He said, “She’s as conscious as an Army Sergeant. She’s in charge. She’s directing me!” When asked if he did not think that her words were slurred, he replied, “some words are slurred and

some are perfectly articulated". When taken to clinical notes for sessions in November 1989, Dr. Leibl conceded that there is no documentation of any doses for either Amytal or alcohol for any of his sessions during that month. Dr. Leibl suggested that "perhaps I didn't use any Amytal on this occasion". When asked how he could be sure she was not intoxicated when he had no idea how much Amytal he might have administered, he replied that it was his practice to go "very slowly and the amount was titrated very carefully".

Dr. Leibl denied that the audiotape is a record of simulated intercourse between himself and Elizabeth McKenna. He admits to lying on top of Elizabeth McKenna and to the following interchange:
Elizabeth McKenna: "This is mad sex… Oh, God…Oh, Baby…I want you, baby (moan)
RL: "Oh, God, I love it, Oh, God…"
However he portrays this role in the "psychodrama" as purely symbolic. To illustrate this, he referred the Committee to the written transcript of the audiotape in which the transcriber attributes the descriptor "(loud moan)" to Elizabeth McKenna and "(light moan)" to himself. According to Dr. Leibl, this makes it self-evident that his participation is symbolic. Similarly, he acknowledges kissing her repeatedly on the face in response to her requests to do so. This too should be seen simply for what it is—a symbolic reenactment. When asked whether or not he felt this incident was wrong, Dr. Leibl was evasive in his answer. He would only state that it was a successful therapeutic technique that was ultimately helpful for Elizabeth McKenna.

Dr. Leibl acknowledges constructing a "ritual funeral" for her family in May of 1989. Elizabeth McKenna was going through a difficult time with her MPD work and was struggling with recently recovered memories of sexual abuse by her father. She was unable to tell her father that she "needed some space" to continue the MPD work. Dr. Leibl denies that he attempted to cut Elizabeth McKenna off from her family. In fact, he claims that he supported her having whatever relationship she could with them. He acknowledges that he assisted to create a letter on his computer telling her father that she was going away to India and would be unable to contact him for an indefinite period. He

and Elizabeth McKenna then mailed the letter and proceeded to the banks of the Don River where the ritual funeral previously described took place. According to his clinical note related to this event, a brief celebration and a reaffirmation of their (Dr. Leibl and Elizabeth McKenna's) relationship followed the ritual. Dr. Leibl denied that there was any intent to isolate Elizabeth McKenna as a strategy to reinforce her dependency upon him.

Shortly thereafter, Elizabeth McKenna's sister managed to find out where she was living and left a message at her apartment. In response to this, Dr. Leibl documents in his clinical notes that he intended to "telephone her sister and threaten that she (Elizabeth McKenna) would—with my help—prosecute her father". In fact, Dr. Leibl never did contact the sister. When asked to explain the purpose of this entry, Dr. Leibl offered that it was "not a statement of intent. Rather it was a psychodrama to help the patient deal with vulnerability. It was intended to be only a temporary position—while she (Elizabeth McKenna) was in a child state". Again he denied that it was part of an effort to further isolate Elizabeth McKenna as a means of increasing her dependency.

Dr. Leibl acknowledges discussing the "rape fantasy" comment with Elizabeth McKenna in November 1993. He realizes he got "drawn into the discussion" and said more than he ought to about Complainant B. He regrets having done this and would do differently the next time. He denied discussing a sexual fantasy with a chambermaid in that same (taped) session. He claims that he simply said that this fantasy existed. He also acknowledges saying, "You know Complainant B is really capable of being both visciously and insidiously provocative and at the same time, wiggle her ass" and that he had no business saying that. Dr. Leibl denied that this conversation with Elizabeth McKenna was sexual in nature, and proposed that it was "definitely therapeutic".

Dr. Leibl purchased a massage table for Elizabeth McKenna to assist her in establishing herself as a massage therapist working out of her own home. He acknowledged that she had no formal training or qualifications for this type of employment, but he had recognized that she had a particular natural talent for massage. Elizabeth McKenna asked

Dr. Leibl to assist her in "creating" a false credential. He felt he was forced into doing so or else risk "letting her down". Together, they crafted a certificate on his computer that attested to her successful completion of a massage therapist training course. Dr. Leibl maintains that he did this as part of an "Ericsonian Frustration Technique" whereby he created the false document so that, little by little, she would come to realize it was a bad idea. He maintains that he never intended for her to actually use it and, she never did.

By the end of "Stage 3" of therapy, it is Dr. Leibl's opinion that Elizabeth McKenna had made a great deal of progress in her MPD therapy. She was emotionally much stronger, taking courses and ready to seek employment. He believed that they were heading for the final stage of her therapy. In the reparenting construct, he saw her as being in the "adolescent" stage of her development where she was beginning to rebel against her contractual parent/therapist.

Stage 4: 1994-1996

- *Father dies March 1994*
- *Ray Leibl becomes ill summer 1994 and loses voice*
- *Elizabeth McKenna moves to assertive non-compliance in therapy*
- *Threats of litigation against Dr. Leibl*
- *Termination*

By the spring of 1994, Elizabeth McKenna's father was very ill. She was back in touch with her family after moving away to do the recovered memory work. Dr. Leibl feels it represented a significant turnaround for Elizabeth McKenna to be able to go to her father at this point. In his view, she had reached a level of emotional maturity where she no longer was holding on to anger for her family, but was now beginning to express angry feelings toward Dr. Leibl. To Dr. Leibl, this was perfectly normal for the "adolescent" stage of reparenting. Dr. Leibl made an interesting comment at this point. Alluding to Elizabeth McKenna's "adolescent rebellion", he stated, "That is why we are at this hearing".

In 1994, Dr. Leibl became ill and lost his voice for a period of six months. He found himself emotionally very vulnerable and decided to cut back significantly on his work hours, doing very little individual therapy and focusing on group interaction. He had to substitute typing on his laptop for verbal communication. He cut back Elizabeth McKenna's therapy schedule to one hour per week. As a result, he perceived that she became angry and threatening.

Dr. Leibl was asked to explain the malicious comment that was discussed by Elizabeth McKenna in her evidence and criticized by Dr. Hoffman in his expert testimony. Dr. Leibl insists that this was a valid therapeutic technique and, even though Elizabeth McKenna was upset at the time, he feels it was successful in "unlocking their stalemate" in which she would simply hurl abuse at him. As evidence of this he points to his clinical note from the following session in which he recorded, "she did very well with the strategy". Dr. Leibl maintains that he was only addressing the "part that holds herself as devalued" and that Elizabeth McKenna would have understood this in the context of their MPD work. By putting the comments in quotes, he believes he clearly framed it so that it "wasn't Dr. Leibl making the comments". His therapeutic goal was to "free her from a depressed, maladaptive person into social power". He also pointed out his introductory comment, "I am sorry about what I am about to say". Dr. Leibl believes that this brings him into an emotional rapport with Elizabeth McKenna and sets out that he is about to engage in a therapeutic exercise rather than a personal insult.

By 1995, Dr. Leibl recalls that Elizabeth McKenna had begun raising complaints about him during their individual sessions. He was aware that she had also been discussing her concerns with other patients in his practice. Dr. Leibl interpreted this behaviour as a positive and anticipated outcome of therapy, as a patient becomes stronger and more assertive. He feels it is normal that patients at this stage of treatment become somewhat disillusioned with therapy. She began being non-compliant, missing appointments and not following his treatment recommendations. At one point he recorded in his notes that it was "her stated intent to seek financial compensation for what she has lost in the years

of therapy with me". Dr. Leibl saw all this as "her moving inevitably towards termination of their therapeutic relationship".

Eventually, Dr. Leibl consulted with Witness C about the advisability of initiating the termination himself. Witness C advised that he do this and assisted Dr. Leibl in creating the text of the termination letter. On November 29, 1996, Dr. Leibl met with Elizabeth McKenna in the company of his wife and delivered the letter. He also gave her an envelope with 8 Amytal tablets. He reasoned that, based on her current consumption of Amytal, this would be a reasonable amount to allow her to wean herself off the drug completely without danger of withdrawal. Dr. Leibl did not accept College counsel's suggestion that Elizabeth McKenna was addicted to Amytal at the time of termination. In his view, she may have been "habituated" but not addicted. He was aware that she was on steadily decreasing doses of the drug and assessed her as being at no risk of withdrawal if she discontinued the medication over a three-day period.

Following the confrontation, Elizabeth McKenna went to the bathroom and stayed there for some period of time. When she emerged, it was apparent that she had swallowed all of the Amytal tablets contained in the envelope. Dr. Leibl recalls that Elizabeth McKenna then left his office with the threatening comment, "I'll see you in court". Shortly thereafter he observed from his window that Elizabeth McKenna was lying on the sidewalk in front of his office and a small group of people had gathered around her. He claims that he went outside to see what had happened and one of the bystanders advised him that an ambulance had been called. Satisfying himself that Elizabeth McKenna was "safely lying on the ground", he returned inside the house and waited for the ambulance to arrive. When taken to his clinical note describing the incident, Dr. Leibl acknowledged that he wrote, "I called an ambulance". In retrospect, he then suggested that he must have forgotten what actually transpired, and that "he believes his notes more than he does his memory".

Following the termination, Elizabeth McKenna telephoned Dr. Leibl repeatedly and left messages on his answering machine. The messages were angry, threatening and tearful.

She yelled and swore at him. She begged him to reconsider and accept her back into therapy. Dr. Leibl feels he fulfilled his expressed obligation to refer her to another therapist, because he came to learn that a psychiatrist had assessed Elizabeth McKenna in the emergency department following the termination.

Elizabeth McKenna repeatedly asked for more Amytal in her telephone messages. Eventually, Dr. Leibl agreed to telephone in a prescription for Phenobarbital. The record confirms that a prescription was dispensed to Elizabeth McKenna for 180 x 100mg Phenobarbital. When asked whether he considered the possibility that Elizabeth McKenna would use this large quantity of medication to attempt suicide, Dr. Leibl claimed that he did not believe she presented a suicidal risk, even though Witness C had cautioned him that she might attempt suicide in response to the termination. Dr. Leibl interpreted Witness C's reference to "suicide attempt" to mean "suicidal gesture". Dr. Leibl explained that a suicidal gesture is simply an attention seeking behaviour without intent to succeed.

When asked to comment on his overall therapy with Elizabeth McKenna, Dr. Leibl believes he was an enthusiastic young psychiatrist in 1976 who was inspired by Jackie Schiff and the reparenting school. He maintains that he set out to help seriously disturbed patients who not been helped by traditional treatment. He saw Elizabeth McKenna in this context throughout the duration of their therapeutic relationship and believes that he acted in her best interest at all times.

Therapy with Complainant B

After reviewing the application for service and conducting an intake assessment with Complainant B, Dr. Leibl recommended that she attend several of his group therapy programs, including NLP, Jungian, Hug and PSP. Over the course of her therapy, Dr. Leibl feels Complainant B derived significant benefit from all these groups. After a period of time, Complainant B decided to leave the hug group as a result of Therapist G's departure. She left the NLP and Jungian groups because she had progressed to the point

that she was capable of the more focused work being done in the Tuesday Intensive group.

During the period from 1987 to 1989 it was Dr. Leibl's practice to have patients complete a note at the end of each group therapy session. He would then review these notes with the therapists afterward and initial the entries. He did not make any notes himself regarding any of the sessions. He has since changed his routine, and now makes clinical entries on each of the patient's files.

Dr. Leibl acknowledges that he made the "rape fantasy" comment to Complainant B during one of the group sessions when he was working with her one on one. He recalls saying something like, "[complainant B], I'm having a rape fantasy and I'm wondering if anything is going on inside you at the moment?" He denied making the comment, "I can't work with you because something you are doing is making me have a rape fantasy about you." He acknowledges that he does not reference the conversation anywhere in the clinical record, even though he structured it as a planned therapeutic intervention.

Complainant B had revealed to Dr. Leibl early in her treatment that she suffered from a "fear of men" and was troubled by unwanted advances from men. The other therapists had also observed that Complainant B tended to act and dress in a "seductive" manner. Dr. Leibl insists that the "rape fantasy" comment was intended to be part of a therapeutic campaign that he and the other therapists had planned to help Complainant B gain insight into her own behaviour and demeanour. He now concedes that it was extremely clumsy and inept. However, he insists that his intent was good. He would not accept that the strategy was inappropriate, only that it was "unhelpful". He acknowledges that Complainant B seemed to be uncomfortable with the comment; however, he did not follow up with her at the time. Complainant B never raised the issue with him subsequently and Dr. Leibl never attempted to discuss it with her after the fact. Dr. Leibl interpreted her silence on the matter to be an indication that she did not consider it to be of significant import.

In April 1989, Dr. Leibl prescribed Lithium to Complainant B as recorded in his clinical record. He explained that he did this because he had observed her to be very agitated at the end of one of the weekend group sessions. He recalls the literature at the time recommending the use of low dose Lithium for patients with "spurts of anger". He regrets that he did not document this rationale in his note, nor any plan for baseline measurements or follow up. However, he pointed out that Complainant B discontinued the medication within a couple of days, so there was no need for any follow up.

Therapists F and G were both volunteer therapists working in Dr. Leibl's clinic. Therapist G was a Catholic Nun who Dr. Leibl believes received training in psychotherapy during the time she worked in the convent. Therapist F was a teacher and guidance counsellor at a community college who had also been a patient in Dr. Leibl's clinic in both groups and individual therapy with Dr. Leibl. Dr. Leibl admits that he has no written record of any qualifications for any of his volunteer lay therapists. Complainant B saw Therapist G for individual therapy up until her departure. After Therapist G left, Complainant B began working with Therapist F while on a waiting list to see one of the other female therapists. Dr. Leibl recalls that she only saw Therapist F for a "few visits" during this period.

Dr. Leibl strongly suggested that all patients see one of the therapists for individual sessions adjunctive to the group interactions. It was not Dr. Leibl's practice to sit in on any of these individual sessions or to review the therapist's clinical notes. Specifically, he denies ever having sat in with Complainant B during her sessions with Therapists F or G, nor does he have any knowledge of what transpired during these sessions.

Dr. Leibl first learned of the sexual relationship with Therapist F when Complainant B told him and the other therapists on June 6, 1989. He insists that he knew nothing about any intimate relationship between them prior to that disclosure. He had observed nothing unusual in the group sessions, nor had Complainant B recorded any reference to the relationship in the notes she made following the sessions. Dr. Leibl recalls that he was deeply upset and angry when he found out. He recalls Complainant B asking him, "how could you let this happen?" When asked if he replied to the effect that the relationship

was “between two consenting adults”, he could not remember. However, he said that he could not imagine saying such a thing. Under cross-examination he conceded that he could possibly have made such a comment, but only in the context of Complainant B betraying his trust. He admits being angry with Complainant B for her secrecy, and suggests that perhaps he responded by saying, “you took the authority away from me to be a consenting adult”.

Dr. Leibl agreed that he initiated no further discussions about the issue subsequent to the disclosure. He did not think that this was necessary since he was aware that Complainant B was seeing Dr. F and Therapist D for individual sessions during this period.

Dr. Leibl agreed that he had a responsibility to supervise the lay therapists providing treatment to his patients, and insists that he did so. He also agreed that he should be aware of what sort of counseling they were giving to patients, and that he did not. Dr. Leibl did not accept the suggestion that, during the two years Complainant B attended his group and individual therapy sessions, he had little or no knowledge of what treatment she was actually receiving. He maintained that he obtained information about her treatment by reading her own notes during the wrap-up sessions, as well as getting reports from the other therapists.

In his letter to the College dated May 21, 1997, Dr. Leibl states that he was only aware of Therapist F providing telephone support to Complainant B outside of the group therapy sessions. He admits that this record says something quite different from what he remembers to have actually happened. Similarly, in his affidavit to the CICB, Dr. Leibl does not set out that Complainant B saw Therapist F for individual therapy on more than one occasion. He insists it was not his intent to mislead, but that it might be interpreted as such.

The Committee reviewed a document from Complainant B’s clinical record titled “Discharge Summary”. Dr. Leibl conceded that he had prepared this document two years after Complainant B had left his practice when asked for a medical history by the day

hospital program at MSH. He agrees that it would have been more appropriate to prepare this report contemporaneous to the conclusion of therapy. Dr. Leibl further conceded that his discharge diagnosis of "Dissociative Personality Disorder" was "made in retrospect". He acknowledges that he would not have known about this clinical condition in 1989.

In this report, Dr. Leibl stated that Complainant B had reported memories of sexual abuse by her father. Under cross-examination however, Dr. Leibl vehemently denied that he was ever aware of any childhood sexual abuse experienced by Complainant B. When asked why he would have stated this in the discharge summary, he explained that he qualified the information with the word "apparently" which is ambiguous and should be interpreted to mean that in fact he did not know about this information. He reaffirmed his denial of any knowledge of sexual abuse in Complainant B's past with the emphatic statement, "I never knew anything specific—ever!" The Committee admits to being completely confused by the contradictory logic of Dr. Leibl's evidence in this matter.

Dr. Leibl believes that Complainant B left his practice because her progress in the groups was stalled, and she had found another therapist. In his opinion, Complainant B benefited significantly from her therapy during the period she attended his clinic. Dr. Leibl stated that, "we were able to help her through her feelings in a very satisfactory manner" and, by the conclusion of her therapy, "she was much better able to express her feelings and access memories".

Witness G

Witness G is a retired psychiatrist who was in clinical practice in Toronto from 1968 until 1997. She developed an interest in primal therapy early in her career. She did postgraduate training in TA and reparenting and used these techniques in her psychiatric practice. In 1975 she was introduced to Dr. Leibl and began working in a study group with him around that time. In 1976 she joined his clinic as a co-therapist in his Hug Group and Tuesday Intensive Group and continued in this capacity until 1993. She referred a number of her own private patients to Dr. Leibl's groups and accepted other patients from the groups for individual therapy in her own practice.

During the period from 1976 to 1993, Witness G did not observe anything in Dr. Leibl's therapy programs that she felt was unprofessional. She had the opportunity to observe Elizabeth McKenna in these groups, including the "rope" technique and the "corner contract". She did not feel these or any other techniques were used inappropriately. She denied knowledge of any individual sessions between Elizabeth McKenna and Dr. Leibl and had no personal involvement with Elizabeth McKenna after 1982. She does not recall ever consulting with Dr. Leibl with respect to his treatment of Elizabeth McKenna, nor was she aware of the frequency or duration of their individual therapeutic sessions. Witness G had no knowledge of any sexual or romantic relationship between Dr. Leibl and Elizabeth McKenna at any time. She never observed Dr. Leibl demonstrating any sexual behaviour towards a patient.

Witness G treated Complainant B in the Hug Group, Tuesday Intensive group and in individual psychotherapy. Witness G did not observe any boundary violations between Complainant B and any of the other therapists in the group. Specifically, she never observed any inappropriate contact between Complainant B and Therapist F.

The usual practice for the group sessions was for the patients to make notes about their own feelings and progress in the sessions. At the end of the sessions, the therapists would assemble and Dr. Leibl would read these notes to the entire staff and a group discussion would ensue. After Complainant B left Dr. Leibl's practice in 1989, Witness G does not recall any discussions amongst the therapists or with Dr. Leibl concerning her treatment.

Witness G does not recall any specific rules being established in Dr. Leibl's clinic with respect to interactions between patients and therapists, but she feels that it was well understood that no sexual interactions were permitted. She does remember a notice on the waiting room bulletin board which stated that the relationships between patients and therapists were expected to be like those of siblings.

Witness G did not have any recollection of Complainant B describing sexual abuse by her family, although she was "fairly sure" there was mention of physical abuse. By January

1989, Witness G was aware that Complainant B was having individual therapy sessions with Therapist F. Complainant B did not discuss the content or progress of these sessions with Witness G. On May 23, 1989 Complainant B disclosed the fact that she and Therapist F were involved in a sexual relationship to Witness G. On June 6, 1989 Therapist F announced to the group that he would be leaving for "personal reasons". Dr. Leibl subsequently told Witness G that he had instructed Therapist F to leave the group because of the sexual involvement with Complainant B.

Dr. Thomas Verny

Dr. Verny received his certification in psychiatry in 1966 and his fellowship in 1972. He has been in private psychiatric practice in Toronto since 1967. The Committee accepted Dr. Verny as an expert qualified to give evidence pertaining to Psychiatry in general and to the Humanist Potential Movement in psychiatry.

During the 1960's and 1970's, Dr. Verny recalls that psychiatry was moving in many new directions, particularly in the area of group therapy. Transactional Analysis, Gestalt and psychodrama were examples of some of these newer modalities, none of which were taught in traditional medical schools or residency training programs. These modalities and others were grouped under the "Humanist Potential Movement" which focused on early life experiences and feelings as significant influences on individual development.

Dr. Verny embraced the school of "Holistic Primal Therapy" and introduced this to Toronto in the early years of his practice. He admits that many of his psychiatric colleagues looked on this somewhat skeptically at first, so he was very careful of doing this in a very ethical fashion. Over time, he attracted many referrals of patients who had experienced failure in traditional "talk" therapy. Elizabeth McKenna was one of those patients. Dr. Verny interviewed her in 1976 and reviewed her "autobiography". He felt she was well motivated but unsuitable for the sort of treatment he could provide. Ultimately, after discussing her case with another therapist, he elected to refer her to Dr. Leibl. Dr. Verny knew of Dr. Leibl as a psychiatrist who was adept at dealing with difficult patients and willing to devote additional time to them if necessary.

In reviewing his own clinical notes, her autobiography and Dr. Leibl's notes, Dr. Verny feels confident that Elizabeth McKenna was suffering from BPD when Dr. Leibl assumed her care in 1976 even though the diagnosis did not formally evolve until the end of the 1970's. Dr. Verny stated that BPD patients are typically very demanding and difficult to manage. Overall, Dr. Verny believes that Dr. Leibl's treatment of Elizabeth McKenna between 1976 and 1996 met the standard of care in the context of the school of reparenting. He acknowledged that Dr. Leibl made some errors of judgement during this period, but observed that over 20 years, with a difficult patient like Elizabeth McKenna, it is impossible to always do the right thing. In his opinion, there are few psychiatrists who would have "hung in" over the entire period of treatment.

Having reread the autobiography in the context of this case, Dr. Verny feels that the relationship between Elizabeth McKenna and the priest was over by the time he had interviewed her in 1976. He believes it would have been incumbent upon Dr. Leibl to ask about it once or twice early on in treatment, and if Elizabeth McKenna appeared reluctant to discuss the matter, to simply let it go. On the other hand, he believes that Elizabeth McKenna's failure to disclose the resumption of the sexual relationship in 1984 could have potentially caused a huge impediment to successful therapy.

Dr. Verny did not receive any formal training in TA or reparenting, although he does occasionally use forms of regressive therapy in his own practice. He believes that physical touch is acceptable in the context of these modalities as long as it has a valid therapeutic purpose. He agrees that physical touch must never be sexual or romantic. Touch is usually used to help patients access feelings and techniques such as stroking, hugging or cradling are appropriate. Dr. Verny feels lying on top of patients is somewhat more controversial, but could be acceptable under certain circumstances.

Dr. Verny feels that it is absolutely acceptable for a psychiatrist to use reparenting techniques. He believes that Dr. Leibl had good intent in his use of reparenting techniques with Elizabeth McKenna, although the extent and certain aspects of his

treatment were not totally appropriate. Dr. Verny also observes that Elizabeth McKenna appeared to derive benefit from the reparenting strategy.

Contracts have been a long-accepted practice in psychiatry and were further formalized in Transactional Analysis theory. Dr. Verny believes that the "corner contract" used by Dr. Leibl served a therapeutic purpose to allow an escalating patient to calm down, much like a parent who calls "time-out" when a child is misbehaving. He admits he is somewhat uncomfortable with the idea of Elizabeth McKenna being restrained by other patients in the corner and is unsure of whether or not that was necessary.

Reparenting requires an intensive time commitment to the patient. Dr. Verny agrees that a psychiatrist should have special training to do this, but not necessarily psychoanalysis. He believes it should be left to the therapist's judgement how long or frequent the sessions should be.

Dependency is a part of any therapeutic relationship in which one person is providing care to another. This is particularly true in reparenting. Dr. Verny agrees that the dependency should develop in the first stage of therapy with the objective of moving progressively towards independence. Dr. Verny agreed that fostering dependency is not desirable in any therapeutic relationship. He also agreed that providing Sodium Amytal to a barbiturate addict would indeed lead to chemical dependency on the physician. In Dr. Verny's opinion, this falls below the standard of care for a psychiatrist. Furthermore, he agreed that giving potentially lethal doses of Sodium Amytal also falls below the standard of care, and that combining Amytal and alcohol is a dangerous practice.

Dr. Leibl's use of terms such as "sweetheart" or "love Ray" did not trouble Dr. Verny. He feels these sorts of endearments are acceptable within the Jackie Schiff model of reparenting, even if used by a psychiatrist. Dr. Verny agrees that therapists should not use language that is humiliating or infantilizing. He acknowledges that therapists can occasionally lose their temper and respond angrily to patients, especially BPD patients engaged in long term therapy. He is aware that Dr. Leibl did lose his temper with

Elizabeth McKenna from time to time, but observes that invariably he admitted this and apologized for his behaviour. Dr. Verny feels it is actually beneficial to a therapeutic relationship to have the authority figure admit to his patient that he was wrong.

Dr. Verny sees gifts as acceptable within the reparenting paradigm. They should be symbolic and inexpensive. He believes the gifts and financial assistance provided by Dr. Leibl to Elizabeth McKenna made sense within the context of the therapeutic relationship.

Dr. Verny did not find anything wrong with Dr. Leibl conducting therapy sessions outside of the office so long as the therapeutic relationship was maintained. He did not feel that engaging in social activities with a patient was a good idea, but it might be acceptable under certain circumstances. When asked if he approved of Dr. Leibl conducting therapy sessions in Elizabeth McKenna's apartment or in his car in Barrie, he replied that he did not know.

Dr. Verny accepts that assaulting a patient is never appropriate. With respect to "the slap" referred to previously in this hearing, Dr. Verny felt that it "was not right" but under the circumstances may have been all Dr. Leibl could have done. Since he only did it once, Dr. Verny feels it can be excused as an error in judgement. "One mistake over 20 years is probably acceptable".

During cross-examination, Dr. Verny acknowledged that he based his opinion of this incident only on the description Dr. Leibl provided to the College in response to Elizabeth McKenna's complaint. Dr. Verny confirmed that he did not review Dr. Leibl's complete clinical notes prior to preparing his reports or giving testimony at this hearing. He did not listen to any of the audiotapes that had been introduced into evidence or the written transcripts of these tapes. When it was confirmed that Dr. Leibl did not tell Elizabeth McKenna to stop hitting herself, Dr. Verny admitted that this would change his opinion. He was also unaware of Dr. Leibl's command to "now draw blood". Dr. Verny was then taken to other incidents in the record that document Dr. Leibl slapping Elizabeth

McKenna on several other occasions and another where he “tackled” her. Based on this new information, Dr. Verny stated that Dr. Leibl’s actions were not justified and that this behaviour would definitely fall below the standard of care for a psychiatrist.

Dispensing medication from a doctor’s office is an unusual practice in Dr. Verny’s opinion. He agreed that in such a circumstance it would be essential for the physician to keep precise records of the medication dispensed and that failure to do so would fall below the standard of care.

Assuming the hypothetical situation of a physician simulating sexual intercourse with a patient, Dr. Verny would interpret that as a sexual act and one that was totally inappropriate. He also believes it wrong for a physician to discuss his sex life with a patient, to describe his liking for the features of female genitalia and to massage a patient’s buttocks as a therapeutic exercise. With respect to the physical touch referenced in the material he did review, Dr. Verny did not see any indication that it was sexual.

Dr. Verny provided the Committee with a document describing the DSM IV diagnostic criteria for BPD. In light of Elizabeth McKenna’s autobiography and past medical history, he concluded that she fulfilled the criteria for this diagnosis. Under cross-examination, he agreed that patients who are addicted to barbiturates could suffer from many of the same symptoms as patients with BPD, in particular, memory impairment, severe depression and social maladjustment. Dr. Verny stated that he was not an expert on either of these diagnoses, but he would agree that BPD must be differentiated from substance abuse in a clinical setting.

With respect to the care and treatment of Complainant B, Dr. Verny believes that Dr. Leibl met the standard of care expected of a psychiatrist in the late 1980’s in spite of some errors of judgement. He believes that self-disclosure can be appropriate for a psychiatrist within the context of a therapeutic relationship as long as it is handled judiciously. He views the “rape fantasy” comment to be unfortunate and clumsy because

it could so easily be misinterpreted. He feels the process was acceptable, but the words were not.

Dr. Verny agreed that it was inappropriate for Dr. Leibl not to keep records of Complainant B's treatment in group therapy. He also accepted that it is dangerous to delegate treatment to untrained, lay therapists, especially where the treatment involves significant physical touch and with a patient who has suffered from prior sexual abuse.

Dr. Adam Crabtree

Dr. Crabtree is a lay psychotherapist. In 1964 he was ordained as a Catholic priest, but left the priesthood in 1969 to pursue psychotherapy on a full-time basis. He studied psychotherapy through a number of venues both full- and part-time from 1965-1975. He opened his own private clinical practice in 1966. In 1993 he received a PhD in therapeutic counselling from the Open University for Complementary Medicines along with Medicina Alternativa, which is an institute of the World Health Organization. He did his PhD thesis on the history of hypnosis and psychotherapy. Since 1980, he has been actively involved in teaching psychotherapy and supervising other therapists, including medical doctors. He has a special interest and has done research in dissociative disorders, including MPD. The panel accepted Dr. Crabtree as an expert qualified to give opinion evidence on the practice of psychotherapy in general, but not to provide opinions with respect to medical diagnoses.

Dr. Crabtree views Dr. Leibl's framework of practice to be largely predicated on Transactional Analysis. Reparenting is considered to be part of the "Cathexis School" of TA. TA is supported by a large body of literature and peer-reviewed journals and is practiced by a respectable minority of psychiatrists. Dr. Crabtree has never seen it stated that this type of therapy cannot be appropriately carried out by medical doctors as well as lay therapists. Within this general theoretical construct, Dr. Crabtree feels that Dr. Leibl used a variety of therapeutic approaches and needs to be judged according to what is good practice within these alternative disciplines.

Dr. Crabtree acknowledges that there is a lot of disagreement between the psychoanalytic and humanist schools of therapy. He suggests that Dr. Hoffman's orientation is psychoanalytic, and that this formed the basis for much of his criticism of Dr. Leibl's treatment.

Physical contact is a prominent feature of the Cathexis School. This would include holding, cuddling and hugging patients who are "regressed". In assessing Dr. Leibl's treatment of Elizabeth McKenna, Dr. Crabtree feels this type of physical contact was used appropriately. He does not condone patients and therapists lying on top of one another, since such contact is too close and powerful. He views this as an error in judgement on Dr. Leibl's part, but not below the standard of care. Dr. Crabtree could find no evidence to suggest that the physical contact between Elizabeth McKenna and Dr. Leibl was in any way sexual.

Reparenting therapy explicitly sets out the objective of creating a strong dependency between patients and therapists. This dependency is temporary and will be naturally replaced by a healthy independence over time. In assessing the financial aid given by Dr. Leibl to Elizabeth McKenna over the years, Dr. Crabtree feels that the amount of money involved was inappropriate and counterproductive to therapy by encouraging dependence. In Dr. Crabtree's opinion, this was an error in judgement.

Dr. Crabtree agreed that drug addiction will create a dependency of patient upon therapist, especially if the therapist is the patient's only source for access to the drug. He also conceded that drugs could affect the suggestibility and vulnerability of a patient undergoing therapy and would necessarily affect the dynamic of therapy. He declined to comment further on the use of drugs and alcohol by Dr. Leibl since he does not feel qualified to do so.

"Contracts" are an integral part of reparenting and TA. Dr. Crabtree feels that the corner contract used by Dr. Leibl with Elizabeth McKenna was appropriate. This technique allows a patient to remain in the group while calming down from a disruptive escalation.

Physical restraint within this context can be justified if it is for the welfare of the patient. In the specific situation at issue in this hearing, Dr. Crabtree believes that the restraint of Elizabeth McKenna was appropriate because she was at risk of harming herself.

Dr. Crabtree supports other reparenting techniques that were used by Dr. Leibl in his management of Elizabeth McKenna. He views the exchange of gifts between patient and therapist to be appropriate as a tangible expression of mutual respect and regard. The use of endearments such as "Mommy-Daddy Ray" is an acceptable shorthand way of identifying the contractual relationship, which was clear to both Elizabeth McKenna and to Dr. Leibl. Seeing Elizabeth McKenna outside of the office in a variety of venues encourages socialization and would have assisted her in learning practical skills such as cooking, shopping and using public transit. The trip to Florida would fit into appropriate reparenting therapy where Dr. Leibl, as the contractual parent, took care of the arrangements for Elizabeth McKenna. Dr. Crabtree observed that it is not unusual for a therapist to interrupt a vacation to deal with a seriously ill patient and he sees nothing wrong with Dr. Leibl conducting therapy sessions in his car after Elizabeth McKenna travelled to Barrie to meet him.

Dr. Crabtree feels that Dr. Leibl made an error in judgement by slapping Elizabeth McKenna in the therapy session on June 20, 1978. In reviewing the record and the audiotape of this event, Dr. Crabtree considers Dr. Leibl's actions to be a misplaced attempt to use paradoxical or Ericsonian therapy to interrupt self-mutilating behaviour. He points out that the detailed documentation and preservation of the tape suggests that Dr. Leibl was willing to expose himself to subsequent scrutiny. Dr. Crabtree agrees that the subsequent "slaps" administered by Dr. Leibl were also errors in judgement, but did not constitute a breach of the standard of care.

Dr. Crabtree supports Dr. Leibl's use of psychodrama by constructing a ritual funeral. He notes that Elizabeth McKenna was going through a period of reflection on her severely dysfunctional family at the time, and the ritual was a way of assisting her to put these negative feelings behind her. The "letter" was part of the ritual, and therefore appropriate.

The psychodrama in which Dr. Leibl re-enacted an episode of sexual abuse by taking the role of the abuser was inappropriate in Dr. Crabtree's opinion, and represents an error in judgement. He does not agree that the interaction in this instance was sexual.

Dr. Crabtree interprets the therapy session of August 24, 1994 as an example of the use of paradoxical therapy. Dr. Leibl used the words Elizabeth McKenna used about herself to reverse Elizabeth McKenna's own self-accusation. Admittedly, the strategy did not work, but the therapeutic intent was clear and appropriate for Dr. Leibl to use under the circumstances. Under cross-examination, Dr. Crabtree accepted that these comments could be interpreted as demeaning and abusive if not qualified by Dr. Leibl as part of a therapeutic exercise. He agreed that Dr. Leibl did not send Elizabeth McKenna the entire context of his remarks in which he stated, "I don't mean this" until two days afterwards. After being taken to audiotapes of previous sessions, Dr. Crabtree accepted the suggestion that Dr. Leibl had been verbally abusive to Elizabeth McKenna on other occasions prior to this incident.

Elizabeth McKenna's family demonstrated a negative attitude to sexuality according to Dr. Crabtree's review of her history. He feels it was quite appropriate for Dr. Leibl to introduce a positive, corrective image to replace the negative, degrading one. Consequently, he sees Dr. Leibl's description of the female genitalia as an appropriate "antidote" discussion. He acknowledges that Dr. Leibl describing his own penis to Elizabeth McKenna would normally be unacceptable. However, the context here was about Elizabeth McKenna's fears about Dr. Leibl in his role of therapist, and therefore the discussion was appropriate. Dr. Crabtree does not see either discussion as either sexual or erotic. He agrees that it was not acceptable for Dr. Leibl to discuss his marital sexual relationship with Elizabeth McKenna during therapy.

Dr. Crabtree described the stages of therapy for MPD, with the ultimate goal of integrating the different personalities, so that the individual can function as a unified person. He believes that Dr. Leibl acted appropriately in eliciting the various "alters"

with Elizabeth McKenna and sees no evidence that Dr. Leibl lead Elizabeth McKenna to create alters according to his own suggestions. Dr. Crabtree thinks the records show that Elizabeth McKenna achieved a great deal of integration by the end of the MPD therapy with Dr. Leibl.

In any therapeutic relationship, the therapist requires full disclosure of all information that the patient consciously knows, otherwise the course of therapy will be retarded. Dr. Crabtree is of the opinion that Elizabeth McKenna's non-disclosure of the relationship with the priest would have had such an impact on her therapy with Dr. Leibl. Dr. Crabtree was asked whether he considered it appropriate for Dr. Leibl to make a flippant comment to Elizabeth McKenna when initially informed of the sexual relationship. Dr. Crabtree observed that this would have to be considered in the context of their relationship. It could simply represent a joke between the two of them. Dr. Crabtree accepts that it would have inhibited further disclosure by Elizabeth McKenna, if she in fact felt ridiculed by Dr. Leibl's comment. However, he remains of the opinion that Dr. Leibl bears no responsibility for Elizabeth McKenna's failure to raise the subject of the relationship again until 1989.

Towards the end of the MPD treatment, it is clear that Elizabeth McKenna was becoming angry and dissatisfied with Dr. Leibl. In Dr. Crabtree's opinion, she was becoming "chronically non-compliant" and threatening. This is a common occurrence in Dr. Crabtree's experience, and when it arises, it clearly has a retarding effect on therapy. Once the trust between patient and therapist is breached, it is appropriate to consider termination.

In summary, Dr. Crabtree believes that despite all the errors that were made along the way, Elizabeth McKenna did progress and improve from a condition which had not yielded to earlier therapeutic endeavours and which would be difficult to treat successfully in any therapeutic framework. For that reason, he considers the work of Dr. Leibl with Elizabeth McKenna as flawed but not seriously delinquent. Despite the errors

of judgement made by Dr. Leibl, Dr. Crabtree believes his treatment of Elizabeth McKenna met the standard of care for psychotherapy for the time.

With respect to Dr. Leibl's treatment of Complainant B, Dr. Crabtree feels that her written notes indicate that she received benefit from therapy and that Dr. Leibl carried out treatment in an appropriate fashion. He reiterated his opinion that physical contact between patient and therapist is acceptable within group therapy with the exception of patients and therapists lying on top of one another. He also expressed no concern about the use of lay therapists in such therapy groups. He agreed that it was insufficient for Dr. Leibl to rely solely on the patients' recorded entries and that he should have made his own summary notes in the clinical record.

Dr. Crabtree feels that Dr. Leibl took the appropriate precautions and set out rules prohibiting any romantic or sexual interaction between patients and therapists. He does not believe that Dr. Leibl should have known about the sexual relationship between Therapist F and Complainant B because there was no information available that would have informed him of this. Once Dr. Leibl did learn about the relationship, Dr. Crabtree feels he handled the issue appropriately. He does not feel Dr. Leibl had any obligation to seek out Complainant B to explore the matter more thoroughly in individual therapy. Quite conceivably, it might be too painful for her to discuss it if she wasn't ready to do so. With respect to the purported comment made by Dr. Leibl that the relationship was "between two consenting adults", Dr. Crabtree accepted that this would have been inappropriate inasmuch as it represented a defensive response by Dr. Leibl.

Dr. Crabtree feels that self-disclosure by a therapist of countertransference feelings can be acceptable if it can be used to help them understand certain behaviour or experiences. He does not agree that the "rape fantasy" disclosure was an appropriate use of this technique and feels that this represents an error in judgement by Dr. Leibl.

Dr. Daniel Silver

Dr. Silver has been a consultant in psychiatry at Mount Sinai Hospital in Toronto from 1973 to the present. He is a retired Associate Professor at the University of Toronto Faculty of Medicine. He operates a general psychiatric practice with a special interest in psychoanalysis and the treatment of patients with Personality Disorders. From 1974-1985 he was the head of the Borderline Personality Disorder (BPD) unit at MSH which was the only such unit in Canada at the time. The Committee accepted Dr. Silver as an expert witness, qualified to provide opinion on psychiatry in general and on the features and treatment of Personality Disorders.

Dr. Silver believes that many different theoretical underpinnings have led to the evolution of modern psychiatry and that an understanding of all of these is useful in dealing with the complexity of psychiatric illness. Psychotherapy itself encompasses many different theoretical constructs resulting in many different systems or schools of therapy. A psychoanalyst would be at one end of the spectrum whereas a practitioner of regressive therapies would be at the other. All are acceptable within the practice of Psychiatry in Canada, subject to the maintenance of standards of the profession and ethical codes of conduct. Dr. Silver feels that reparenting and "Touch Therapies" fall within this broad framework of acceptable psychiatric treatments.

In 1976, when Dr. Leibl had just begun his practice, the climate of psychiatry was changing quite dramatically. It was a period of "anti-establishment" in all aspects of society and psychiatrists were looking in new directions to identify more effective and appropriate therapies. Dr. Silver suggests that Dr. Leibl may have ventured into these more adventurous areas out of some disillusionment with the skew of patients and treatment to which he had been exposed in his training.

Dr. Silver described the diagnostic features of BPD in some detail. He views BPD patients as being "characterologically disturbed". They demonstrate an enduring pattern of inner-experience and behaviour that deviates markedly from the expectations of the individual's culture. The behavioural pattern is stable and usually begins in adolescence

or early adulthood. BPD patients have character traits that are inflexible and maladaptable. Many have dual diagnoses such as depression or substance abuse. They are hypersensitive and tend to break down during stressful situations. Inevitably, patients with BPD are very demanding of their therapists. They perceive themselves as “special” and do not expect their therapists to treat them like they do other patients. The therapeutic relationship is usually turbulent, with the patient alternating between idealization and devaluation of the therapist.

The goals of therapy for patients with BPD are to assist them to reduce the chaos in their interpersonal relationships, reduce self-mutilation and suicide attempts and to keep them out of hospital. Keeping such a patient out of hospital is perhaps the greatest measure of success in therapy. The most important predictor of long-term success is the therapist who “hangs in there” with the patient over the course of treatment. In Dr. Silver’s opinion, this is actually more important than the techniques used in treatment or the individual skills of the therapist. Dr. Silver currently has many BPD patients who have been in treatment with him for over twenty years. Any therapist who accepts the challenge to manage such a patient should be prepared that he/she will be a patient “for life”.

Dependency is a malignant feature of a Borderline patient’s life and this is often transferred to the therapist. Dr. Silver maintains you must manage this the best way you can, with the objective of being “dependable” rather than dependant. BPD patients invariably fight any form of limit-setting.

In the early 1970’s, BPD was just beginning to be conceptualized as a diagnosis in psychiatry. It evolved largely out of psychoanalytic theory. Previously, BPD patients tended to be diagnosed as “qualified” Schizophrenics. Hence, such adjectives as “Simple” or “Latent” Schizophrenia came into fashion, which acknowledged that the diagnosis shared features with Schizophrenia, but did not formally fit the diagnostic criteria. In retrospect, it is easy to see how these patients were misunderstood and

mistreated. Clearly, ECT is now never used in Schizophrenia or BPD. In addition, drugs have proven to be useless to manage symptoms in BPD.

Based on the records he reviewed, including the medical records of Elizabeth McKenna during her hospitalizations prior to 1976, Dr. Silver is of the opinion that Elizabeth McKenna suffered from BPD at the time she started in Dr. Leibl's practice. He further qualified that she would be considered to be a "primitive" BPD patient, at the more severe end of the spectrum of this disorder. Beginning his therapy with Elizabeth McKenna, Dr. Leibl could have expected her to make frequent suicide attempts. In fact, 10-15% of all Borderline patients will eventually die from suicide. Dr. Silver feels it would have been important for Dr. Leibl to have hospital backup, to keep in close contact with mentors and consultants and overall to not become discouraged with a potentially frustrating and difficult therapeutic relationship.

Dr. Silver believes the non-disclosure of the resumption of the sexual relationship with the priest to be a significant aspect of her history. In his experience, it is quite common for patients to keep secrets from their therapists, which invariably creates havoc and complexities with respect to the therapy. During cross-examination he accepted the suggestion that it is a common phenomenon in psychiatric practice for patients to withhold uncomfortable or shameful memories from their therapists. Psychiatrists are trained to anticipate this and to encourage open and honest communication with patients by establishing a relationship of trust.

Dr. Silver prepared two reports outlining his opinions on this case. In the second report, dated January 10, 2001 he commented on Dr. Hoffman's report that is in evidence at this hearing. Dr. Silver notes that a mainstream psychiatrist such as Dr. Hoffman would perhaps reasonably be outraged by what he would perceive as the "alternative therapy" practiced by Dr. Leibl. However, in reviewing the detailed, unabridged notes of a classical psychotherapist, Dr. Hoffman might well find that therapy equally outrageous for other reasons. Dr. Silver believes that to fairly evaluate any therapeutic procedure, an

expert such as Dr. Hoffman would need to familiarize himself with its theories and practices and apply those in the evaluation process.

Dr. Silver disagrees with Dr. Hoffman's criticism of the time spent in treatment with Elizabeth McKenna and specifically his suggestion that to attempt such rigourous therapy, one should have formal training in psychoanalysis. Dr. Silver feels that many branches of psychiatric therapy are time-intensive and the number of hours spent in treatment is by no means dictated by the subspecialty of the therapist.

It appears to Dr. Silver that Dr. Hoffman seems unaware of the large body of literature relating to Transactional Analysis and reparenting. On one hand, Dr. Hoffman states that he accepts the basic tenets of reparenting but on the other, he is critical of the very hallmarks of reparenting such as physical and social contact, financial arrangements and lack of limit setting. Dr. Hoffman implies by his criticism that Dr. Leibl is working outside of a legitimate school of psychotherapy, and this is prejudicial.

In his first report, dated September 18, 2000, Dr. Silver comments on Dr. Leibl's therapy with Elizabeth McKenna. He observed that "The relationship between Dr. Leibl and Elizabeth McKenna was not always a smooth one. Elizabeth McKenna at times could be a very difficult and demanding patient. Nevertheless, Dr. Leibl remained committed to the therapeutic relationship until it broke down in 1996". He further notes that, "In reviewing the records, it does appear from time to time that Dr. Leibl had difficulty in being sufficiently objective with Elizabeth McKenna in setting strict limits and maintaining them". In reference to Dr. Leibl's records and documentation, Dr. Silver comments "It is striking to me in this case that Dr. Leibl has documented his interactions with Elizabeth McKenna in such detail. He, almost painfully, analyzes their day-to-day interactions and sets out candidly his own reactions and counter-transference reactions to her as well as the details of the therapeutic interventions he engaged in. There is no attempt to hide or conceal how he carried out therapy with Elizabeth McKenna. He must have been aware that these notes could come under scrutiny one day. I would draw from

this that Dr. Leibl was genuinely trying to help this patient even to the extent of trying unorthodox means to do so".

Under cross-examination, Dr. Silver acknowledged the material he had reviewed prior to preparing this report to be:

1. The medical and hospital reports pertaining to Elizabeth McKenna's care before and after her treatment with Dr. Leibl
2. Dr. Thomas' expert report
3. The correspondence of the College with Dr. Leibl and Elizabeth McKenna.

He did not review any of Dr. Leibl's extensive clinical record pertaining to Elizabeth McKenna. Furthermore, he did not have access to any of the other evidence before this hearing, including the information relative to the use of Amytal and alcohol. The Committee was very disturbed to realize this in light of Dr. Silver's definitive opinions relative to Dr. Leibl's treatment of Elizabeth McKenna and his recordkeeping.

In conclusion, Dr. Silver stated that " (Elizabeth McKenna) appears to be in a period of stabilization at the present time and, indeed, appears to be functioning better in several important areas of her life, including her ability to pursue educational courses and be involved with the legal system. She now has friends and a more appropriate social life". In his testimony, he commented that her current level of functioning speaks volumes to the success of her 20-year relationship with Dr. Leibl. During cross examination, Dr. Silver admitted that he based these conclusions on the fact that she had entered into litigation on 2 separate occasions, on the opinions expressed by Dr. Leibl in his correspondence to College and on the clinical notes of two psychiatrists whom Elizabeth McKenna consulted briefly after termination by Dr. Leibl.

DECISION

Case for the College

An enormous amount of evidence was presented in relation to the allegations in the Notice of Hearing. The College takes the position that each and every allegation has been made out by the evidence before the panel.

Elizabeth McKenna testified at great length during this hearing. She was a credible, straightforward witness. She provided her testimony in a dispassionate manner and did not impress the panel as bearing any malice towards Dr. Leibl. In fact, she spoke of Dr. Leibl in endearing terms. She candidly admitted that she was "very much in love with him", and it appeared to the Committee that she continues to love him to this very day. She readily admitted her own character flaws and how they played a role in the development of the unusual relationship between herself and Dr. Leibl. Her memory for detail was amazing, yet her testimony was flawlessly consistent. She articulated her recollection of events in a plausible fashion and was unshaken during a lengthy cross-examination.

Similarly, Complainant B presented as a forthright and credible witness. Her evidence was consistent and articulate. Little of her evidence-in-chief was challenged in cross-examination. Although she was clearly upset with Dr. Leibl for his behaviour towards her, the Committee did not feel her complaint was motivated out of revenge for the part Dr. Leibl played in her failed action for financial compensation through the CICB. In any event, the panel accepts that she was truthful about the facts, which makes her motivation irrelevant.

Dr. H and Witness E gave evidence that was consistent with that of Elizabeth McKenna and with much of Dr. Leibl's evidence. They both impressed the Committee as being conscientious professionals who were profoundly disturbed by Dr. Leibl's management of Elizabeth McKenna. Their testimony was essentially undisputed in cross-examination.

The factual evidence of witness F was largely supported by objective documentation, and the panel has no reason to question its accuracy.

Witness A's evidence was consistent with that of other witnesses and not seriously challenged. Witness B was an eloquent and articulate observer of events with respect to Elizabeth McKenna and was not tested in cross-examination.

Expert witnesses for the College

Although the Committee has no reason to doubt Dr. Thomas' qualifications as an expert in the practice of psychiatry, it was disturbed by the carelessness with which she assessed the information provided for her review. As a result, the Committee does not assign a significant amount of weight to her opinions on the standard of care in this case.

Dr. Hoffman completed an extremely thorough examination of the entire clinical record and the enormous volume of other documentation related to this case. He listened to all of the audiotapes of the clinical sessions with Elizabeth McKenna. His written report was detailed and comprehensive. His viva voce evidence was articulate and well organized. By virtue of Dr. Hoffman's training and experience, the Committee felt that he was well qualified to give opinion evidence with respect to Dr. Leibl's standard of care and conduct. His testimony was unwavering under a very challenging cross-examination. The Committee accepted Dr. Hoffman's testimony and report to be both reliable and credible.

The Committee did not accept the Defence argument that Dr. Hoffman's opinions, as they relate to reparenting, should be given little weight because he practices within a different school of psychotherapy than Dr. Leibl, and that he did not thoroughly research the literature on reparenting before providing his report. Ironically, Dr. Verny was called to give evidence for the Defence on the theoretical structures and practices of reparenting, yet in his evidence, Dr. Verny admitted that he had no formal training in either TA or reparenting. Dr. Hoffman clearly stated that he accepts the theories of reparenting as a legitimate part of the humanist school of psychiatry. Dr. Hoffman has also received training in Transactional Analysis and uses principles from TA within his own "eclectic"

clinical practice. Dr. Hoffman was not critical of Dr. Leibl's use of reparenting as a technique, but was critical of his conduct as a physician and psychiatrist.

The Defence also challenged Dr. Hoffman's credentials in that he is "essentially an academic/administrator psychiatrist who spends only a small fraction of his time in clinical practice". The evidence before this Committee is that Dr. Hoffman was actively involved in clinical practice from 1974 to 1996 when he accepted the position of Chief of Psychiatry at North York General Hospital. In that role he has continued to spend approximately 50 hours a month in direct patient contact. The Committee is satisfied that he is well qualified from this perspective.

The Defence suggested that Dr. Hoffman entered into a review of this case with a pre-existing negative bias against Dr. Leibl. Dr. Hoffman fully acknowledged that he sent a critical letter to Dr. Leibl in 1994 in his capacity as psychiatrist for Complainant B. The Committee considers Dr. Hoffman's opinions in this case to be fair and well supported, and did not accept that there was any concern of bias in his evidence.

Dr. Hoffman was further criticized for his use of excerpted or "fragmented portions of Dr. Leibl's notes in an attempt to portray various events in a limited and very negative light". The Committee observed that Dr. Hoffman's report runs to over 80 pages, a large part of which is comprised of appendices made up of these "excerpts". If he were to have included the entire contextual references, he would have had to reproduce the majority of the clinical record, which the Committee had readily available for its own review. The Committee does not feel this would have been helpful to them and feels it quite appropriate for Dr. Hoffman to have used this format for constructing his report.

Defence counsel also suggested that Dr. Hoffman "chose to link together actions that were not always related and to characterize them as patterns". They also allege that he used "highly charged imagery" to describe events in the therapy, which "speaks to Dr. Hoffman being an advocate" with an opinion unduly slanted towards one side. This line of reasoning did not persuade the Committee. Admittedly, these "patterns" of behaviour

are clearly Dr. Hoffman's own particular construct, and he is not being asked to postulate his own set of allegations. Consequently, the Committee is not relying on the outline of his report for its decision. However, it accepted his opinions as they relate to the overall standard of care provided by Dr. Leibl where they specifically address the allegations set out in the Notice of Hearing.

Case for the Defence

In closing argument the defence conceded a number of issues. They accepted that the use of drugs and alcohol was seriously wrong and a significant breach of the standard of care. They conceded that this represents professional misconduct as defined under allegation #1 in the notice of hearing, relating to failure to maintain the standard of the profession. Defence counsel suggested that this is the only issue in which Dr. Leibl fell below the standard of care and the only area where he should be found guilty of professional misconduct.

The Defence also conceded that Dr. Leibl made errors in judgement in the following areas:

- Restraint of Elizabeth McKenna in the context of the corner contract
- Lying on top of patients
- Loaning of money to Elizabeth McKenna and elaborate gifts
- Swearing at Elizabeth McKenna during therapy sessions
- The incident of "the slap"
- Tapping Elizabeth McKenna's cheeks
- The malicious letter
- The sexual abuse psychodrama

The Defence submitted that these do not represent sufficiently serious errors, either on their own or cumulatively, to constitute either professional misconduct or incompetence. They also do not agree that there is sufficient evidence in this case to support the allegations of sexual impropriety or sexual abuse.

In Dr. Leibl's evidence, the Committee found him to be a very frustrating witness. His testimony was invariably evasive and discursive. When pressed to provide a direct answer to a specific question, he would frequently digress into an extended oration to the Committee on the various techniques he employed in his practice or his own philosophical musings. In many instances, he simply refused to provide an answer to a question or insisted that he would only answer if allowed to frame it in his own context. He frequently contradicted his own testimony and provided evidence that was completely at odds with his own clinical record. When confronted with these inconsistencies or blatant misrepresentations of the truth, he defended his replies with very odd twists of logic. The panel also reviewed his voluminous clinical record and was taken to several specific entries during his testimony. Notwithstanding the stylistic idiosyncrasies of all medical professional records, the Committee found the majority of his recorded entries to be nothing short of bizarre, and in many cases unintelligible.

Dr. Leibl demonstrated a total and complete lack of insight into his inappropriate care and conduct with respect to either complainant at this hearing. Although he begrudgingly accepted that his use of drugs and alcohol was wrong, this admission was belied by the remainder of his testimony in which he staunchly defended his therapeutic goals in using such treatment and dismissed the possibility that he put his patient at any risk whatsoever. He portrayed himself as the unfortunate victim of two vindictive patients. He displayed no remorse for what he would only admit were errors of judgement or clumsy use of therapeutic techniques. He prevaricated with competent medical caregivers who offered advice with respect to his treatment of Elizabeth McKenna. Ultimately, he ignored their advice. He obviously lied to the College about the course of events in his replies to both complaints. His explanations under cross-examination were similarly self-serving.

Although Witness G presented as a credible witness, the Committee did not find that her evidence was of any significant use in arriving at its decision.

Expert Witnesses for the Defence

Dr. Verny is clearly a well-qualified psychiatrist who would fall within the category of the "respectable minority" who uses and advocates non-traditional modalities of treatment. However, the Committee discounts his expertise in reparenting, upon which the Defence has asked it to rely. It seems evident that he is less qualified in this area than Dr. Hoffman. The Committee was frankly shocked that Dr. Verny did not review any of Dr. Leibl's clinical record, responses to the College or the audiotapes before providing his report or giving testimony at this hearing, despite the fact that this information was made available to him. Assessing the practice of reparenting without the context of Dr. Leibl's use of it is of little or no value to the Committee. Nonetheless, Dr. Verny offered an opinion as to the standard of care provided by Dr. Leibl and the Committee attaches little weight to this opinion.

When presented with hypothetical situations or specific instances from the clinical record during cross-examination, Dr.Verny felt constrained to retract much of his evidence-in-chief where it was supportive of the standard of care. The Committee observed that Dr. Verny appeared embarrassed that he had initially so strongly opined about the appropriateness of Dr. Leibl's conduct.

Dr. Crabtree presented as a credible and sincere witness who made a thorough review of all the available records and information before providing his detailed reports. The Defence suggested that the Committee should rely heavily on his evidence to assess Dr. Leibl's standard of care. Unfortunately, Dr. Crabtree was accepted to provide opinion evidence on Dr. Leibl's practice of psychotherapy. There is no allegation before this Committee that Dr. Leibl failed to meet the standard of care for a psychotherapist. He is alleged not to have met the standard for a physician and psychiatrist who uses psychotherapy as one modality of treatment within his practice. Dr. Crabtree is a member of an unregulated profession and the Committee does not accept that he is qualified to give opinions on the standard of care for a physician.

Dr. Silver was asked to provide opinion evidence relative to the diagnosis and treatment of BPD. He is clearly a world-renowned expert in this field. Like Dr. Verny, he did not assess any of Dr. Leibl's clinical records in arriving at his conclusions. It struck the Committee as strange that a clinician of his stature would base his diagnostic impressions of a patient like Elizabeth McKenna on her treatment prior to 1976 and after 1996 and ignore totally the 20 years of intensive treatment provided by Dr. Leibl. Nonetheless, the Committee is prepared to accept his evidence with respect to the diagnosis of Elizabeth McKenna. It completely rejects any comments made within the context of his reports or testimony where Dr. Silver comments positively on Dr. Leibl's care and treatment. Dr. Silver has no foundation from which to base this opinion.

The Committee observed that, of the three experts called by the Defence, the two who were most qualified to give opinions on the standard of care were either not provided with Dr. Leibl's clinical record or did not take the opportunity to read it. Instead, the Defence relied upon a member of an unregulated profession to take on this task. On the evidence before it, the Committee concluded that there simply is no supportable defence for the standard of care provided by Dr. Leibl.

Defence counsel led exhaustive evidence to support the argument that Elizabeth McKenna's failure to disclose the extent and nature of the sexual relationship with the priest had a negative impact on the course of therapy. It is very clear to this Committee that Elizabeth McKenna did indeed make full and detailed disclosure of the nature of the relationship at the outset of therapy. It was Dr. Leibl who chose to ignore or not follow up on this disclosure. The Committee does not accept that it is fair to blame the patient for the physician's failure to recognize the significance of the initial disclosure. Furthermore, the Committee considers the entire issue irrelevant to the allegations set out in the Notice of Hearing. At worse, the failure of Dr. Leibl to appreciate the significance of this relationship would have slowed or "retarded" therapy as suggested by Dr. Crabtree. The length of therapy is not a significant issue of dispute in this case. The non-disclosure is no excuse for Dr. Leibl's inappropriate conduct.

Similarly, the Committee feels that the issue of Elizabeth McKenna's diagnosis adds little to the matters of issue at this hearing. The only conclusion it can make from this assumption is that there should somehow be a lowered expectation of conduct for a physician who must deal with a complex or "difficult" patient. On the contrary, the evidence heard by the Committee would suggest just the opposite. Boundary transgressions have a significantly more serious impact on an unstable patient with BPD and should be guarded against at all costs. If the Committee were to agree with this argument, it would be forced also to agree that the patient was to blame for the doctor's poor judgment. The Committee finds this totally unacceptable.

Much was made during the Defence case of the apparent "success" of Dr. Leibl's treatment as evidenced by Elizabeth McKenna's current state of improved functioning and lack of need for psychiatric care. The Defence's expert, Dr. Silver, instructed the Committee at some length about the "incurable" nature of BPD. It is therefore difficult for the Committee to accept that this particular "severe and primitive" borderline patient was transformed into a healthy, functioning individual as a result of her 20 years of treatment with Dr. Leibl. The Committee believes she improved in spite of Dr. Leibl's care rather than because of it.

The Allegations

1) **"Failed to maintain the standard of practice of the profession"**

   The Committee finds Dr. Leibl guilty of professional misconduct in respect of this allegation. The use of drugs and alcohol is the most clearly egregious example, and Dr. Leibl has conceded this. The Committee does not accept that the other conceded offenses represent simple errors in judgment within the appropriate standard. The sexual abuse psychodrama and the "slap" each stands on its own as an example of professional misconduct. The other examples of physical abuse represent professional misconduct. Taken cumulatively, there can be no other conclusion but that Dr. Leibl's behaviour falls seriously below the standard of any competent physician.

During the hearing, the Committee was taken to many examples that were represented by the College as boundary violations. Dr. Hoffman commented on these in his report at some length. These include; physical touch, hugging and cuddling, conducting therapy outside the office, socializing with patients, using terms of endearment, giving of elaborate or expensive gifts, loaning large amounts of money, taking Elizabeth McKenna on a vacation to Florida, swearing, telling of explicit sexual jokes and calling Elizabeth McKenna on a daily basis for several years. In Dr. Hoffman's opinion, these are definite boundary violations that are inappropriate for a psychiatrist. The Defence portrays these as acceptable under the theoretical construct of reparenting.

The Committee accepts Dr. Hoffman's opinion that isolated instances of such behaviour can be acceptable, but the prolonged, repetitive nature of this form of conduct leads to a pattern of behaviour that falls below the standard of care. More importantly, these sorts of boundary violations inevitably lead to more serious transgressions such as creation of undue dependency, verbal and physical violence and sexual exploitation.

After considering all of the evidence, the Committee accepts that reparenting is clearly a therapy that is fraught with dangers and that any physician using it must be very clear what is therapeutically acceptable behaviour and what constitutes boundary violations. In the Committee's view, the severe, prolonged and repetitive boundary violations committed by Dr. Leibl in his care and treatment of Elizabeth McKenna and Complainant B constituted a failure to provide the accepted standard of care.

2) **"Made improper use of the authority to prescribe a drug to Elizabeth McKenna"**

The Committee accepts Dr. Hoffman's opinion that there is no clinical indication for the use of Amytal and/or alcohol in the technique of trance induction. There is also no clinical indication for the use of Amytal for treatment of anxiety. The amounts of the drugs used were incredibly excessive and prolonged. Dr. Leibl frequently

administered potentially lethal doses with wanton disregard for the welfare of his patient. He sacrificed all her superficial venous injection sites in his zeal to administer higher, more potent doses of medication. He created an addict, not once but twice, despite the proffered advice of competent professionals in this regard. And finally, he provided Elizabeth McKenna with a prescription for an amount of Phenobarbital that would have inevitably proved fatal if consumed in its entirety as an overdose. He did this with full knowledge that Elizabeth McKenna was potentially suicidal at the time. Dr. Leibl is clearly guilty of professional misconduct as it relates to this allegation.

3) **"Prescribed and dispensed drugs to Elizabeth McKenna for an improper purpose"**

The Committee also finds Dr. Leibl guilty of professional misconduct as it relates to this allegation. The foregoing discussion need not be repeated here. In addition, the Committee accepts Dr. Hoffman's opinion that there is no place for the use of alcohol anywhere in the practice of psychiatry, and particularly in the manner in which Dr. Leibl employed it here.

4) **"Engaged in sexual impropriety with patients"**

The Committee finds Dr. Leibl guilty of professional misconduct in that he engaged in sexual impropriety with Elizabeth McKenna.

The Committee is satisfied that the sexual abuse psychodrama meets the test of what an objective observer would reasonably consider to be sexual. We fully acknowledge that Elizabeth McKenna did not represent this incident as sexual. Nevertheless, she was clearly intoxicated during this session and has no independent recollection of the event. Dr. Leibl, on the other hand was in a position of power and control. It is the Committee's opinion that he proceeded with intent to play out a sexual act. Whether his motive was sexual gratification or not is of no relevance. He argues that Elizabeth McKenna directed him and that she was as "conscious as an army sergeant". This comment speaks to his incredible lack of insight and remorse. No reasonable human being, let alone medical professional, could listen to the audiotape of that clinical

session and draw a conclusion that Elizabeth McKenna was not severely intoxicated. Dr. Leibl feels that he sought and obtained at least implied consent before proceeding with the psychodrama. The Committee feels this is totally irrelevant. Patients cannot consent to sexual assault under any circumstance.

Dr. Crabtree opined that the sexual abuse psychodrama represented only an error in judgement and was not sexual. The Committee rejects this opinion. Dr. Crabtree's failure to recognize the egregious and sexual nature of this incident serves only to further undermine his credibility as an expert commenting on the standard of care for a psychiatrist.

The Committee struggled to some extent with the other incidents put forward as examples of sexual impropriety. It was unanimous in condemning Dr. Leibl's behaviour in discussing his penis and female genitalia with Elizabeth McKenna, with his disclosure of personal sexual experiences and particularly with the rape fantasy comment to Complainant B. Dr. Leibl's conduct here is completely inappropriate. However, the Committee is prepared to concede that these incidents may have been undertaken within the context of some therapeutic purpose, however misguided. It is noted that the description of genitalia and his penis are clearly documented in his clinical record as part of the psychotherapeutic process. It seems unlikely that Dr. Leibl would have recorded these events in his note if his intent was truly sexual. The Committee therefore does not find these incidents sufficient to meet the test of sexual impropriety as set out above.

5) "Sexually abused Elizabeth McKenna"

The term "sexual abuse" replaced the former term "sexual impropriety" as a result of legislation passed in 1993. Therefore, this allegation must be applied only to behaviour or incidents that occurred subsequent to 1993. The Committee has no evidence before it to support a finding of sexual abuse by Dr. Leibl during this period.

6) "Abused Elizabeth McKenna verbally and physically"

The Committee feels that Dr. Leibl physically abused Elizabeth McKenna in at least four specific incidents: “the slap”, forcibly restraining her in the corner, dragging her down the stairs and repeatedly placing his hand over her mouth in a purported therapeutic exercise. The Committee agrees with Dr. Hoffman that these incidents individually and severally constitute physical assault. The fact that Elizabeth McKenna was seriously intoxicated by drugs and alcohol supplied by Dr. Leibl makes the stair incident particularly unconscionable. Dr. Leibl’s subsequent self-serving clinical record of this event and his letter to the College serve to underscore his pervasive lack of insight. In his testimony before the Committee, he portrayed his behaviour that night as prudent and caring. He is obviously still of the opinion that the entire incident was Elizabeth McKenna’s fault, and he was simply protecting her from harm.

The Committee therefore finds Dr. Leibl guilty of professional misconduct in physically abusing Elizabeth McKenna.

With respect to verbal abuse, the Committee is prepared to concede the defence position that these represent errors in judgement in an emotionally charged therapeutic relationship. Although no one can condone the language used by Dr. Leibl in some exchanges with Elizabeth McKenna, it does appear to be a reciprocal understanding between them that profanity is acceptable in the context of their day to day communication. The malicious computerized note was a pathetic attempt by Dr. Leibl to utilize a therapeutic technique. For once, he was prepared to acknowledge that he did so inappropriately.

7) **“Failed to maintain the records that are required to be kept respecting a member’s patients in relation to Complainant B”**

Dr. Leibl concedes this as an error in judgement. The Committee finds this is to be a breach of the acceptable standard and that it constitutes professional misconduct.

8) **"Falsified a record in respect of the examination or treatment of Elizabeth McKenna"**

The Committee finds that there are several examples in the clinical record and correspondence to the College where this allegation has been proven. However, the College is relying specifically upon the letter to the College relating to "the slap" and the Committee finds Dr. Leibl guilty of this allegation.

9) **"Gave information concerning the condition of Complainant B and professional services performed for her to a person other than the patient without her consent"**

Dr. Leibl clearly breached patient confidentiality in discussing Complainant B's care in a therapeutic session with Elizabeth McKenna. The Committee is prepared to accept this as an error in judgement. Elizabeth McKenna may have caught Dr. Leibl off guard with her confrontation and Dr. Leibl could have assumed Complainant B implied consent to discuss the issue by revealing the incident to Elizabeth McKenna. In respect of Dr. Leibl's affidavit to the CICB, he had more time to consider his written response and should have been more circumspect. However, the Committee agrees that these breaches do not constitute professional misconduct.

10) **"Charged a fee that is excessive in relation to the services provided"**

11) **"Charged a fee for services not performed"**

The Committee does not feel that the burden of proof was met in respect to the evidence on this issue and finds Dr. Leibl not guilty of these allegations.

12) **"Engaged in conduct that is disgraceful, dishonourable or unprofessional"**

The Committee is unanimous that there is clear and cogent evidence to support a finding of professional misconduct with respect to this allegation.

13) **"Engaged in conduct unbecoming a physician in relation to Elizabeth McKenna"**

College counsel invited the Committee to consider the various misrepresentations by Dr. Leibl in its assessment of this allegation.

- Dr. Leibl assisted Elizabeth McKenna to create a letter on his computer advising her family that she was leaving for India.
- He failed to notify the ARF about the use of Amytal and alcohol in clinical sessions prior to her admission in June 1990.
- The serious misrepresentations in his communications to the College in response to the complaints from Elizabeth McKenna and Complainant B

The Committee is satisfied that these examples, in conjunction with all of the previous inappropriate behaviour by Dr. Leibl, prove this allegation.

14) **"Is incompetent in that he has displayed in his professional care of Elizabeth McKenna and Complainant B a lack of knowledge, skill or judgement or disregard for the welfare of these patients, of a nature or to an extent that demonstrates that he is unfit to continue in practice as defined in subsection 60(4) of the *Health Disciplines Act*"** and

"Is incompetent in that he has displayed in his professional care of Elizabeth McKenna a lack of knowledge, skill or judgment or disregard for the welfare of this patient, of a nature or to an extent that demonstrates that he is unfit to continue to practice or that his practice should be restricted as defined in section 52 of the *Code.* "

The Committee finds that Dr. Leibl's misconduct meets the test required to define incompetence under both legislation where it relates to his treatment of Elizabeth McKenna. His use of Amytal and alcohol endangered the life of his patient. In the process of this treatment she suffered significant injuries from falls and injections. She spent several years of her life in an intoxicated, dysfunctional state. He caused her to become addicted and then blamed her for allowing this to happen. Within a few weeks of her successful withdrawal from Amytal and alcohol in the ARF, Dr. Leibl reintroduced both substances in individual treatment sessions and continued them for

a further six years. This conduct is clearly reprehensible, occurred during the course of treatment and displays a profound lack of knowledge, skill or judgement on Dr. Leibl's behalf. He has clearly demonstrated a wanton disregard for the welfare of his patient.

Dr. Leibl unfortunately continues to display a profound lack of insight into the severity of his misconduct. He believes that he safeguarded Elizabeth McKenna's well being at all times. In fact, it is his sheer good fortune that she did not die as a result of his inappropriate treatment. He bears no remorse for the repercussions of his behaviour. He actually believes Elizabeth McKenna benefited from his treatment. Although Dr. Leibl accepted that his use of Amytal and alcohol was wrong, his repeated self-serving justifications for his actions suggest that he acknowledges this only on a very superficial level. Dr. Leibl demonstrates an unwavering conviction that the end justified the means regardless of the consequences, and that his conduct can be vindicated by his purported good intentions.

The Committee rejects the Defence argument that Dr. Leibl's use of drugs and alcohol involved a single patient and that he is therefore at little risk to reoffend. His inability to acknowledge or comprehend the significance of his professional misconduct over a period of 20 years indicates to the contrary.

Dr. Leibl's inappropriate conduct continued right up until termination of the doctor-patient relationship and the subsequent complaint by Elizabeth McKenna to the College. The lack of insight displayed by Dr. Leibl in his testimony at this hearing in regard to his use of drugs and alcohol and the numerous other boundary violations which constitute professional misconduct has convinced the Committee that he is currently incompetent and unfit to continue in practice.

The Committee hereby directs the Hearings Office to fix an early date for the hearing as to penalty in this matter.

Indexed As: Leibl (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. RAYMOND DANNY LEIBL

PANEL MEMBERS: DR. R. MACKENZIE (CHAIR)
DR. C. HILL
R. SANDERS
J. MARTEL

PUBLICATION BAN

Hearing Date:	December 11-15, 2000, January 2-5, February 5-9, February 26-March 2, March 5-9, March 26-30, April 22, 2001
Decision/Release Date:	June 22, 2001
Penalty Hearing Date:	September 5, 2001
Penalty/Release Date:	September 20, 2001

PENALTY AND REASONS FOR PENALTY

The Committee received in evidence written documents, oral testimony, and as well heard a victim impact statement.

PUBLICATION BAN

The following orders are in effect from the first part of the hearing.

- An order under s. 47(1) that no person would publish the identity of Complainant B, or any information that could disclose this complainant's identity.

- An order under s. 45(3) banning the publication or broadcast of the complainant's medical record contained in exhibit 2 (volume 1-15).

- An order under s. 45(3) and 47(1), that the name and identifying information for any patient, including complainants, shall not be published or broadcast (excluding Ms. Elizabeth McKenna).

IMPACT STATEMENT AND EVIDENCE

Elizabeth McKenna prepared and read a victim impact statement into the record wherein she articulated the gravity of the many losses that she suffered as a result of Dr. Leibl's actions, and the significance of the pain inflicted upon her by these actions.

The Committee marked as evidence a brief of reference letters written in support of Dr. Leibl. The authors of these letters included 16 referring practitioners and colleagues, and 65 patients. In addition, seven patients provided vive voce evidence during the hearing. These individuals spoke eloquently of their positive experiences with Dr. Leibl and offered opinions as to his caring and compassionate nature.

SUBMISSIONS

The Committee had the benefit of extensive submissions as to penalty from Counsel for the College and Counsel for Dr. Leibl.

College counsel reviewed the principles of penalty that have been articulated in previous Discipline decisions. These include:

1. Protection of the public;
2. The maintenance of the reputation and integrity of the profession and its ability to govern its members;
3. General deterrence;
4. Specific deterrence;
5. Rehabilitation of the member

Counsel for the College and Counsel for Dr. Leibl agreed that the paramount principles of penalty that need to be applied in this case are those of specific deterrence and protection of the public. The College submitted that revocation was the only penalty that could satisfy both these principles. Counsel for Dr. Leibl submitted that a penalty less than revocation could adequately balance the principles and she provided the Committee with a proposal for suspension of registration, rehabilitative measures and conditions to be imposed upon return to practice.

DECISION AS TO PENALTY

After careful consideration of the evidence and submissions, the Committee directs the Registrar to revoke Dr. Leibl's certificate of registration and further requires Dr. Leibl to appear before the Panel to be reprimanded, the fact of which will be recorded on the register.

REASONS FOR DECISION

The Committee agreed with College counsel that the frequency and duration of misconduct, spanning more than two decades, cannot be construed as an isolated instance of inappropriate behaviour. Dr. Leibl risked Ms. McKenna's life repeatedly with full understanding of the potential consequences. The deliberate nature of his actions goes well beyond carelessness or negligence and they cannot be portrayed as simply errors of judgement in an otherwise unsullied career. Over the course of twenty years Dr. Leibl committed virtually all the physician/patient boundary violations that are described in the literature. He repeatedly ignored the advice of other health care professionals to discontinue the use of Sodium Amytal and alcohol in his treatment of Ms. McKenna. When her addiction became a reality, he deliberately re-introduced the drugs.

The Committee rejects defence counsel submissions that Dr. Leibl's concessions of error should be considered a mitigating factor in determining penalty. Despite acknowledging some errors in judgement, Dr. Leibl demonstrated by his evidence that he has gained no insight into the serious and egregious nature of his misconduct. After conceding that some of his actions were wrong, he then proceeded to vehemently defend those actions and to implicate his patients as the authors of their own misfortune. The Committee was also asked to consider that Dr. Leibl believed what he was doing to have a therapeutic purpose and that this should be considered a mitigating factor as well. Dr. Leibl apparently did believe that his actions had a therapeutic purpose at the time, and clearly continues to hold that belief to this very day. It is this profound lack of insight that, in the Committee's opinion, makes him a dangerous physician and the prospect of successful rehabilitation extremely unlikely.

The Committee heard submissions from defence counsel that removing Dr. Leibl from practice will deprive a significant group of vulnerable and difficult to treat patients from receiving appropriate medical care. Several of the letters of reference alluded to Dr. Leibl's willingness to take on such cases and to the scarcity of similar-minded physicians

within the mainstream psychiatric community. The Committee rejected defence submissions that it should consider a "window of opportunity" to keep Dr. Leibl in practice in order to continue to service this otherwise disenfranchised group of patients. The Committee agrees with College counsel that bad medical care is an inappropriate substitute for no care at all. It defies logic to suggest that the profession should allow an incompetent physician, who has apparently gained no insight into his deficiencies, to practice medicine solely because his patients will have difficulty finding another caregiver. This would be particularly true with the patient population in question here, which has repeatedly been identified as a vulnerable one. Such individuals are uniquely at risk from an incompetent physician who exerts such a powerful control over their lives.

The Committee observed that many of the letters of reference tendered in support of Dr. Leibl were written prior to the start of the Discipline hearing. Of those authors whose letters were written subsequent to the release of the decision of this Committee, not one indicated any knowledge or understanding of its finding. Of the seven character witnesses who testified at the penalty hearing, four admitted that they had not even read the decision and, on cross-examination, demonstrated that they had only vague, second-hand understanding of either the allegations or the decision. One opined that, whatever the findings were, she rejected them outright as untrue. The Committee was concerned that many of these well-intentioned individuals demonstrated what amounts to unreserved and unqualified devotion to a clearly charismatic therapist. It observed that Elizabeth McKenna herself mounted a sustained and vociferous defence of Dr. Leibl throughout the entire period of time that his most egregious misconduct occurred. Although patient testimonials are occasionally helpful in arriving at an appropriate penalty, the Committee does not accept that they can provide any accurate or reliable measure of a physician's overall competence or standard of care.

Although his counsel offered an apology to the two complainants on behalf of Dr. Leibl during the penalty phase of this hearing, the Committee remains of the opinion on the evidence it heard that Dr. Leibl has exhibited no remorse for the consequences of his actions, and that he is ungovernable. It is the Committee's opinion that revocation is necessary to repudiate his severe misconduct, to protect the public and to maintain the integrity of the profession.