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**THE DISCIPLINE COMMITTEE OF THE COLLEGE
OF PHYSICIANS AND SURGEONS OF ONTARIO**

IN THE MATTER OF a Hearing directed
by the Executive Committee of the
College of Physicians and Surgeons of Ontario,
pursuant to Section 36(1) of the
Health Professions Procedural Code, being Schedule 2 of the
Regulated Health Professions Act, 1991,
S.O. 1991, c. 18 as amended.

BETWEEN:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. DAVID FRANKLIN COOK

PANEL MEMBERS: DR. A.B. KENSHOLE (CHAIR)
DR. B. ADAMS
DR. M. RAPP
H. MAEOTS
K. MANSEAU

HEARING DATE: November 3, 1999

DECISION RELEASED DATE: November 3, 1999

DECISION AND REASONS FOR DECISION

By a Notice of Hearing dated October 16, 1998, the Executive Committee of the College of Physicians and Surgeons of Ontario (the **A**College**@** referred to the Discipline Committee of the College the following allegations of professional misconduct against Dr. David Franklin Cook (**A**Dr. Cook**@**. It was alleged that Dr. Cook committed an act of professional misconduct as defined in clause 51(1)(a) of the *Health Professions Procedural Code* (the **A**Code**@**, which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, in that he had been **A**found guilty of an offence that was relevant to his suitability to practise medicine". The specific offences of which Dr. Cook was found guilty were itemized in Schedule A to the Notice of Hearing as:

1. On December 18, 1997, Dr. Cook was found guilty of sexual assault contrary to sections 246.1 and 271 of the *Criminal Code*. Dr. Cook committed these offences against EB and JM, both of whom were his patients or former patients.
2. On February 19, 1998, Dr. Cook was found guilty of two counts of indecent assault and two counts of sexual assault contrary to sections 149 and 246.1 of the *Criminal Code*. Dr. Cook committed these offences against LD and CM, both of whom were his patients or former patients.

On July 19, 1999, the Discipline Committee held a hearing under the authority of section 36(1) of the *Code* for the purposes of deciding whether Dr. Cook had committed the act of professional misconduct alleged in the Notice of Hearing. Dr. Cook did not attend in person. His counsel, advised the Committee that Dr. Cook was serving a cumulative sentence of four years in a federal penitentiary further to the convictions referred to above. Dr. Cook's counsel indicated, however, that he had instructions to proceed with the hearing.

Dr. Cook pleaded guilty to the charge of professional misconduct as alleged in the Notice of Hearing. Counsel for the College and counsel for Dr. Cook jointly submitted an agreed Statement of Facts, which was reviewed by the Discipline Committee. The following facts were agreed by the College and Dr. Cook to be true:

1. On December 18, 1997, Dr. Cook was found guilty in the Ontario Court of Justice (General Division) of two counts of sexual assault. The victim of each count of sexual assault was a patient of Dr. Cook in Ontario at the time the offence occurred.
2. On February 19, 1998, Dr. Cook was found guilty in the Ontario Court of Justice (General Division) of two counts of sexual assault and two counts of indecent assault. The two victims of these charges were patients of Dr. Cook in Ontario at the time the offences occurred.
3. On March 19, 1998, Dr. Cook was sentenced to one year of imprisonment for each offence of which he was found guilty on February 19, 1998. These sentences were ordered to be served consecutively.
4. On March 19, 1998, Dr. Cook was sentenced to one year of imprisonment for each offence of which he was found guilty on December 18, 1997. These sentences were ordered to be served concurrently with one another and with the sentences set out in paragraph 3, above.

In the Agreed Statement of Facts, Dr. Cook admitted that he was guilty of professional misconduct as defined in clause 51(1)(a) of the *Code* in that he had been found guilty of an offence which was relevant to his suitability to practise medicine. The Agreed Statement of Facts was signed by the Registrar of the College. A duplicate copy of the Agreed Statement of Facts was witnessed and signed by Dr. Cook on July 16, 1999.

Before the Committee, and pursuant to the Agreed Statement of Facts, counsel for the College withdrew certain other allegations against Dr. Cook which were contained in a former Notice of Hearing dated November 5, 1994, a copy of which was attached as Exhibit A to the Agreed Statement of Facts. The Committee noticed in reviewing that material that the substance of the allegations in the former Notice of Hearing were substantially the same matters which formed the basis of Dr. Cook's criminal convictions and sentencing as itemized in subparagraphs 1-4 in the Agreed Statement of Facts, quoted above.

Upon hearing the submissions of counsel for the College and Dr. Cook, and after reviewing the Agreed Statement of Facts, the Discipline Committee found that Dr. Cook was guilty of professional misconduct as defined in clause 51(1)(a) of the *Code*.

Turning to the matter of penalty, counsel for the College and Dr. Cook jointly submitted that the appropriate disposition by the Discipline Committee would be revocation of Dr. Cook's certificate of registration to practise medicine.

In reviewing all of the material relevant to this matter, the Discipline Committee is of the view that the public must be protected from such behaviour as engaged in by Dr. Cook. Given the gravity of the sexual misconduct which formed the basis for the offences of which Dr. Cook was found guilty, the Discipline Committee was satisfied that no disposition other than revocation of Dr. Cook's registration to practise medicine would be considered proper.

Physicians are reminded of the seriousness with which the College regards issues of sexual misconduct involving physicians and their patients. The Discipline Committee is of the view that severe penalties should be imposed in circumstances involving serious sexual misconduct and severe breaches of trust, such as occurred in the case of Dr. Cook, in order to send a message to the professional and community that such behaviour is unacceptable. By any measure, Dr. Cook's conduct was wholly intolerable. His further participation as a registered member of this College would be contrary to the public interest. For all of the foregoing reasons, the Discipline Committee directed the Registrar to revoke Dr. Cook's certificate of registration forthwith.

Dated this day of 1999

DR. A. KENSHOLE

DR. B. ADAMS

DR. M. RAPP

MR. H. MAEOTS

MS. K. MANSEAU