

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Roberts, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of the patient or any information that could disclose the identity of the patient under subsection 47(1) of the Health Professions Procedural Code (the “Code”), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, as amended.

Subsection 93(1) of the Code, which is concerned with failure to comply with these orders, reads:

Every person who contravenes an order made under ... section 45 or 47... is guilty of an offence and on conviction is liable,

(a) in the case of an individual to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence; or

(b) in the case of a corporation to a fine of not more than \$50,000 for a first offence and not more than \$200,000 for a second or subsequent offence.

Indexed as: Roberts, J.K.A. (Re)

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

IN THE MATTER OF a Hearing directed
by the Inquiries, Complaints and Reports Committee of
the College of Physicians and Surgeons of Ontario
pursuant to Section 26(1) of the **Health Professions Procedural Code**
being Schedule 2 of the *Regulated Health Professions Act, 1991*,
S.O. 1991, c. 18, as amended.

B E T W E E N:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. JEREMY KEITH ALKEN ROBERTS

PANEL MEMBERS:

**DR. M. GABEL
S. BERI
DR. A. JONES
S. DAVIS
DR. M. DAVIE**

**Hearing Date: November 3, 2010
Decision Date: November 3, 2010
Release of Written Decision: January 10, 2011**

PUBLICATION BAN

DECISION AND REASONS FOR DECISION

The Discipline Committee (the “Committee”) of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on November 3, 2010. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty and costs order, with written reasons to follow.

THE ALLEGATIONS

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

1. under clause 51(1)(b.1) of the Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, (the “Code”), in that he sexually abused a patient;
2. under clause 51(1)(b) of the Code in that the governing body of a health profession in a jurisdiction other than Ontario has found that Dr. Roberts committed an act of professional misconduct that would, in the opinion of the panel of the Discipline Committee holding the hearing of which this document is notice, be an act of professional misconduct as defined in Ontario Regulation 856/93, made under the *Medicine Act, 1991* (“O. Reg. 856/93”);
3. under subsection 1(3) of O. Reg. 856/93, in that the governing body of a health profession in a jurisdiction other than Ontario has made a finding of professional misconduct or a similar finding against Dr. Roberts, and the finding is based on facts which would be an act of professional misconduct as defined in subsection 1(1) of O. Reg. 856/93; and
4. under paragraph 1(1)33 of O. Reg. 856/93, in that he has engaged in conduct or an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful,

dishonourable or unprofessional.

RESPONSE TO THE ALLEGATIONS

Dr. Roberts admitted the second allegation in the Notice of Hearing, that he had committed an act of professional misconduct under clause 51(1)(b) of the Code in that the governing body of a health profession in a jurisdiction other than Ontario has found that Dr. Roberts committed an act of professional misconduct that would, in the opinion of the Panel, be an act of professional misconduct as defined in O. Reg. 856/93. Counsel for the College withdrew the first, third and fourth allegations in the Notice of Hearing.

FACTS AND EVIDENCE

The following facts are set out in an Agreed Statement of Facts filed as an exhibit at the hearing.

PART I – FACTS

1. Dr. Jeremy Roberts (“Dr. Roberts”) is a psychiatrist who received a certificate of registration authorizing independent practice in Ontario in 1983. Dr. Roberts maintained a certificate of registration in Ontario during various time periods from 1983 to September 2009.
2. In or about July, 1993, Dr. Roberts received his certificate of registration authorizing independent practice in Alberta. Effective on or about March 13, 2008, Dr. Roberts was struck from the Register of the College of Physicians and Surgeons of Alberta.
3. Patient X became a patient of Dr. Roberts in January 2003 when he was practising in Alberta. Dr. Roberts provided psychotherapy to Patient X for, among other things,

depression and marital problems.

4. Beginning in or about November 2003, while she was his patient, Dr. Roberts initiated and engaged in a romantic and sexual relationship with Patient X which included sexual activity in Dr. Roberts' medical office.

5. In July 2005 Dr. Roberts and Patient X were married.

6. In or about November 2005, Dr. Roberts and Patient X separated.

7. On or about March 13, 2008, Dr. Roberts was found guilty by the Council of the College of Physicians and Surgeons of Alberta of unbecoming conduct and/or demonstrating a lack of skill or judgment in that he:

(a) Had an inappropriate relationship, which included sexual activity, with his patient.

(b) Inappropriately used prescription medication without the prescription of another physician.

(c) Failed to create and maintain a clinical record for Patient X on five dates.

(d) Failed to make arrangements from the transfer of care of Patient X to another psychiatrist.

8. Dr. Roberts' name was struck from the Register in Alberta and he was ordered to pay costs in the amount of \$28,840.00. Attached is a copy of the Order of the Council of the College of Physicians and Surgeons of Alberta.

PART II – PLEA OF NO CONTEST [SIC]

9. Dr. Roberts pleads no contest to the facts in paragraphs 1 to 8 above and pleads guilty to the allegations contained in paragraph 2 of the Notice of Hearing that he committed acts of professional misconduct under:

(a) clause 51(1)(b) of the Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18 (the “Code”), in that the governing body of a health profession in a jurisdiction other than Ontario has found that Dr. Roberts committed an act of professional misconduct that would be an act of professional misconduct as defined in O. Reg. 856/93, made under the *Medicine Act, 1991*.

Although the Agreed Statement of Facts specified that Dr. Roberts pleaded “no contest”, counsel confirmed that Dr. Roberts was not entering a plea of no contest, rather, he was admitting to the allegations of professional misconduct in paragraph 2 of the Notice of Hearing on the basis of the facts in the Agreed Statement of Facts.

FINDING

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts. Having regard to these facts and Dr. Roberts’ plea, the Committee found that he committed an act of professional misconduct under clause 51(1)(b) of the Code, in that the governing body of a health profession in a jurisdiction other than Ontario has found that Dr. Roberts committed an act of professional misconduct that would, in the opinion of the Panel, be an act of professional misconduct as defined in O. Reg. 856/93.

PENALTY AND REASONS FOR PENALTY

Counsel for the College and counsel for the member made a joint submission as to an appropriate penalty. Counsel proposed the following:

1. The Registrar revoke Dr. Roberts’ certificate of registration immediately;
2. Dr. Roberts appear before the panel to be reprimanded;
3. Dr. Roberts pay costs to the College in the amount of \$3,650, within sixty (60) days; and

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

The Committee has limited discretion to reject a joint submission on penalty. The Committee is mindful that a proposed penalty should be accepted unless to do so is contrary to the public interest and would bring the administration of justice into disrepute.

The Committee finds that the penalty proposed by the parties is appropriate in all of the circumstances. In this case, a finding was made of professional misconduct under section 51(1)(b) of the Code for which revocation is not mandatory. Revocation would have been mandatory under section 51(5) of the Code if a finding of sexual abuse had been made. The penalty of revocation of Dr. Roberts' certificate of registration and a public reprimand with costs of the per diem tariff of \$3650.00 is appropriate because a sexual relationship with a vulnerable patient, especially one with whom the doctor has had a psychotherapeutic relationship, is morally reprehensible. This behaviour is a most egregious betrayal of the patient, the public and the profession. This penalty serves to uphold the honour and reputation of the profession and fulfills the goals of specific and general deterrence by sending the message that this behaviour will not be tolerated by the College.

Revocation of Dr Roberts' certificate of registration is consistent with the cases put forward jointly by counsel in their brief of authorities, and serves the objective of protecting the public.

ORDER

Therefore, the Committee ordered and directed that:

1. The Registrar revoke Dr. Roberts' certificate of registration immediately.
2. Dr. Roberts appear before the panel to be reprimanded.
3. Dr. Roberts pay costs to the College in the amount of \$3,650, within sixty (60) days.

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

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