

DECISION AND REASONS FOR DECISION

The Discipline Committee of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on September 12, 2005. At the conclusion of the hearing the Committee found that the member committed professional misconduct and delivered its penalty order with written reasons to follow.

ALLEGATIONS

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

1. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O.Reg 856/93”), in that he has engaged in conduct or an act or acts 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
2. under clause 51(1)(b.1) of the Health Professions Procedural Code, which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18 (the “Code”) in that he engaged in sexual abuse of a patient.

RESPONSE TO THE ALLEGATIONS

The College withdrew allegation #2 in the Notice of Hearing. Dr. Krishnalingam entered a plea of no contest to allegation #1 as set out in the Notice of Hearing.

Where a member enters a plea of no contest to an allegation, the member consents to the following:

- a) that the Discipline Committee can accept as correct the facts alleged against the member on that allegation for the purposes of the proceeding only;
- b) that the Discipline Committee can accept that those facts constitute professional misconduct or incompetence or both for the purposes of the proceeding only; and
- c) that the Discipline Committee can dispose of the issue of what finding ought to be made without hearing evidence.

EVIDENCE

Counsel for the College filed the following Statement of Facts as exhibit #2 and presented it to the Committee:

PART I - FACTS

1. Dr. Krishnalingam received an independent practice certificate from the College of Physicians and Surgeons of Ontario in 1991 and is a psychiatrist.

Patient "A"

2. Patient "A" was a psychiatric patient of Dr. Krishnalingam in November 2003. Patient "A" attended Dr. Krishnalingam's office on three separate occasions in November, 2003, complaining of depression, anxiety and low self-esteem.
3. During Patient "A"'s initial visit with Dr. Krishnalingam, Dr. Krishnalingam asked her questions regarding her relationships with men. In response to Dr. Krishnalingam's questions, Patient "A" told him that she had had one long-term relationship and that she had negative feelings towards men because she felt that all they wanted from her was sex. Dr. Krishnalingam asked Patient "A" further questions regarding her sexual relationships.
4. Dr. Krishnalingam's questions regarding Patient "A"'s sexual relationships were insensitive and inappropriate questions for an initial meeting with a new patient. The questions made Patient "A" feel uncomfortable and were not necessary in order to address Patient "A"'s concerns.
5. Patient "A"'s second appointment with Dr. Krishnalingam was in November, 2003. At the conclusion of this appointment, as Patient "A" was preparing to leave Dr. Krishnalingam's office, Dr. Krishnalingam engaged in a brief hug with Patient "A".
6. Patient "A"'s last appointment with Dr. Krishnalingam was also in November, 2003. At the conclusion of this appointment, as Patient "A" was preparing to leave Dr. Krishnalingam's office, Dr. Krishnalingam engaged in a brief hug with Patient "A".

7. Dr. Krishnalingam acknowledges that these brief hugs made Patient “A” feel uncomfortable and that they were unwarranted and inappropriate.
8. As a result of Dr. Krishnalingam’s actions, as described above, Patient “A” cancelled her fourth appointment with Dr. Krishnalingam and did not return to him for any further therapy.

Patient “B”

9. Patient “B” was a psychiatric patient of Dr. Krishnalingam in October and November 2003. Patient “B” attended Dr. Krishnalingam’s office on three separate occasions in October and November, 2003, complaining of obsessive/compulsive disorder.
10. During the therapy sessions in October and November, 2003, Dr. Krishnalingam held and caressed Patient “B”’s hands, which he intended as a supportive gesture.
11. Dr. Krishnalingam acknowledges that holding Patient “B”’s hand made her feel uncomfortable and that it was unwarranted, unwanted and inappropriate.
12. At the conclusion of Patient “B”’s final session with Dr. Krishnalingam in November, 2003, as Patient “B” was preparing to leave Dr. Krishnalingam’s office, Dr. Krishnalingam gave her a brief hug.
13. Dr. Krishnalingam acknowledges that giving Patient “B” a hug made her feel uncomfortable. He acknowledges that the hug was unwanted, unwarranted and inappropriate.
14. Dr. Krishnalingam acknowledges that giving and engaging in an unwanted hug with a patient is a boundary violation. Dr. Krishnalingam acknowledges that it was inappropriate for him to have engaged in a brief hug with a patient and hold and caress a patient’s hand.
15. As a result of Dr. Krishnalingam’s actions, as described above, Patient “B” did not return for any further therapy with Dr. Krishnalingam.

PART II – NO CONTEST PLEA

16. Dr. Krishnalingam does not contest that the conduct described above constitutes professional misconduct:

- a) under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, in that he has engaged in conduct or an act or acts relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

FINDING

The Committee accepted as true all of the facts set out in the Statement of Facts. Having regard to the uncontested facts, the Committee found that Dr. Krishnalingam committed professional misconduct under paragraph 1(1)33 of Ontario Regulation 856/93, in that he has engaged in conduct or an act or acts relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

PENALTY DECISION AND REASONS

Counsel for the College and counsel for Dr. Krishnalingam made a joint submission regarding penalty.

In considering any penalty, the Committee must take into account the principles of protection of the public, specific and general deterrence, maintenance of the reputation of the profession and the rehabilitation of the member.

The Committee considered that, by admitting the allegation of professional misconduct, declaring remorse for his inappropriate and unwanted behaviour and apologizing to the complainants for unacceptable discomforts caused by his misbehaviour, a two-month suspension and recorded reprimand is appropriate along with payment to the College of costs in the amount of \$4,750.

In reaching this conclusion, the Committee took into account, as mitigating factors, that Dr. Krishnalingam has no prior conviction at the College and, by entering a plea of no contest, Dr. Krishnalingam spared the complainants from having to testify and saved the costs of a longer

hearing. The Committee noted that a longer suspension may have been appropriate, but for the fact that Dr. Krishnalingam voluntarily took a boundaries course after learning about the complaints. He completed the course in October of 2004. In April 2005 he also attended a seminar entitled “Boundary Violations and the Discipline Process in a Climate of Zero Tolerance” organized by the Ontario District Branch of the American Psychiatric Association.

Furthermore, Dr. Krishnalingam’s commitment to additional CME courses, his express recognition that his actions were not support gestures but boundaries violations and his apology for any discomfort or upset caused to the complainants are all indications of the development of an appropriate professional attitude and understanding.

The Committee concluded that the proposed penalty would adequately protect the public, uphold the honour and integrity of the profession and satisfy the principles of specific and general deterrence and rehabilitation of the member.

ORDER

Therefore, the Discipline Committee ordered and directed that:

1. The Registrar suspend Dr. Krishnalingam’s certificate of registration for a period of two (2) months effective immediately.
2. Dr. Krishnalingam appear before the panel to be reprimanded.
3. Dr. Krishnalingam pay to the College costs in the amount of \$4,750.00.
4. The results of this proceeding to be included in the register.

At the completion of the hearing Dr. Krishnalingam waived his right to appeal and the reprimand was administered.