

SUMMARY OF DECISION OF HEARING COMMITTEE OF THE COLLEGE OF PHYSICIANS AND SURGEONS OF NOVA SCOTIA AND DR. ROBERT WADDEN

A Hearing Committee of the College of Physicians and Surgeons of Nova Scotia (the College), met on August 28, 2015 to consider a Settlement Agreement approved by the College, and recommended by Investigation Committee "A" of the College.

By Decision dated September 4, 2015, the Hearing Committee accepted the Settlement Agreement.

Overview

1. Dr. Robert Wadden practices family medicine at a medical clinic in Halifax, Nova Scotia. In addition to a general family medicine practice, Dr. Wadden is a diplomate of the American Board of Hair Restoration Surgery, and provides hair transplant and other hair restoration services to clients from a hair transplant clinic in Halifax.
2. Dr. Wadden has been practicing family medicine since 1992. He has no disciplinary history with the College.
3. Dr. Wadden was the family physician for the family of Patient X for more than 15 years. Patient X was thirteen years old when she first saw Dr. Wadden, and she remained a regular patient of his until the events giving rise to her complaint. Throughout that time Dr. Wadden treated her for a number of different matters.
4. In 2014, Patient X was having medical issues that led to an appointment with Dr. Wadden. Dr. Wadden conducted a PAP examination in a manner that later gave rise to Patient X filing a complaint with the College. Patient X alleged both inappropriate actions and language of Dr. Wadden during this appointment.
5. Patient X returned to Dr. Wadden for a further appointment a month later because she needed paperwork completed arising from her earlier appointment. She confronted him about his words and actions during the appointment when the PAP examination was conducted, and recorded the conversation, without Dr. Wadden's knowledge. The audio recording indicates that Dr. Wadden made a number of apologetic comments to Patient X.
6. Dr. Wadden says these apologetic comments related to angry comments he made to Patient X during the earlier appointment, after, according to him, she had falsely accused him of inappropriate actions. Patient X says these apologetic comments relate to his inappropriate actions and words.
7. Patient X later filed a complaint with the College and provided the College with the audio recording of her conversation with Dr. Wadden.

Steps Taken by Investigation Committee

8. The Investigation Committee reviewed all written material provided by Patient X and Dr. Wadden, and reviewed the transcript from the audio-recording. The Investigation

Committee met with Dr. Wadden on June 17, 2014, during which Dr. Wadden advised the Committee he had voluntarily adopted the practice of seeing female patients in the presence of a chaperone, after receipt of the complaint. At the June 17, 2014 meeting, the Committee agreed to accept a written undertaking to this effect on the basis that Dr. Wadden would post a sign advising of the chaperone requirement in both the waiting room and the examination room at his medical practice. Dr. Wadden agreed to this.

9. The Committee later interviewed Patient X. Patient X's version of what happened in 2014 was consistent with the content of her written complaint.
10. Following this meeting, the Committee noted there were two very different descriptions of the medical appointment with Dr. Wadden, and referred an allegation of professional misconduct to a hearing.
11. Pursuant to the regulations made under the *Medical Act*, a proposed Settlement Agreement relating to matters referred to a hearing may be initiated before a hearing begins. In this case, the College and Dr. Wadden agreed upon the content of a proposed Settlement Agreement, which was then reviewed by Investigation Committee "A" and recommended for acceptance by the Hearing Committee.

Admissions

12. Dr. Wadden admits he violated the personal physical boundary and the professional boundary between him and a female patient. The violation took place in the course of an unchaperoned PAP smear and involved an inappropriate pelvic examination. Dr. Wadden admits his actions constitute professional misconduct, defined by the *Medical Act* as follows:

"professional misconduct" includes such conduct or acts in the practice of medicine that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional and that, without limiting the generality of the foregoing, may include breaches of

- (i) the Code of Ethics approved by the Council;
- (ii) the accepted standards of practice of medicine;
- (iii) this Act, the regulations and policies approved by Council.

Disposition

13. The disposition outlined in the Settlement Agreement is as follows:
 - (a) Dr. Wadden is reprimanded for his admitted professional misconduct.
 - (b) Dr. Wadden's licence to practice medicine is suspended for a period of 6 months, to be served in two intervals of 3 months each, both of which must be concluded no later than May 30, 2016. Dr. Wadden shall advise the Registrar of the College of the dates he will not be practicing, prior to the commencement of each interval of the suspension.

(c) Dr. Wadden will complete the next available offering of the course “Understanding Boundaries and Managing the Risks Inherent in the Doctor-Patient Relationship”, offered by the Schulich School of Medicine and Dentistry at Western University in London, Ontario.

(d) A permanent condition shall be placed on Dr. Wadden’s licence to practice medicine requiring him to have an attendant present when seeing any female patients. A sign to this effect shall be posted in Dr. Wadden’s waiting room and in any examination room where he sees female patients.

(e) Dr. Wadden agrees to pay a contribution toward the costs of the College’s involvement in this matter.

Reasons for Acceptance of Settlement Agreement

14. The Hearing Committee reviewed the proposed Settlement Agreement as outlined above, and agreed to approve it.
15. The Committee found that Dr. Wadden committed a serious breach of the professional conduct expected of a physician who practices medicine in Nova Scotia, through his violation of the personal, physical and professional boundaries with his patient.
16. The Committee noted that the vulnerability of the particular patient involved, combined with the nature of the boundary violations, warranted a significant disposition. The Committee also considered mitigating factors such as the lack of any prior disciplinary history, and Dr. Wadden’s cooperation with the College’s processes. Bearing in mind these aggravating and mitigating factors, the disposition involving a reprimand, a six month period of suspension, boundaries education and an ongoing requirement for an attendant when seeing female patients, was acceptable to the Committee. The Committee found such a disposition fulfilled the objectives of protecting the public, preserving the integrity of the medical profession and maintaining the confidence of the public in the ability of the profession to self-regulate.