Abelsohn, Alan Ralph – Ontario College of Family Physicians Peer Reviewer

By admin | February 14, 2012 | Disciplinary Actions

Was Involved with Dr. Cathy Vakil – 2004 OCFP Pesticide Review (Non Peer Reviewed)

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Finally, we are deeply indebted to those who volunteered their time to provide reviews and editing of reference lists or chapters of the report. Our peer and expert reviewers and editors provided important comments and suggestions and new perspectives during writing of the report.

Peer reviewers were Alan Abelsohn, Neil Arya and Kathleen Finlay. Expert reviewers were Tye Arbuckle from Health Canada, Patricia Harper from Sick Childrens' Hospital Toronto, Linn Holness from University of Toronto and Judith Kaur from the Mayo Clinic, Rochester.

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Committee: Discipline
Appeal Status: No Appeal **Appeal Decision Date:**
Hearing Date: 01 Dec 2003 **Decision Date:** 03 Aug 2004
Publication Date: October 2005
Decision Summary:

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Allegations

It was alleged that Dr. Abelsohn committed an act of professional misconduct, in that:

1. he sexually abused a patient; and

^ Back to Top

2. he engaged in 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.

It was also alleged that Dr. Abelsohn was incompetent, in that his 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 demonstrated that he is unfit to continue to practise or that his practice should be restricted.

Response to the Allegations

Dr. Abelsohn denied the allegations.

Findings

After lengthy deliberation, the Committee found Dr. Abelsohn committed an act of professional misconduct, in that he sexually abused a patient by engaging in touching of a sexual nature of the patient, and by engaging in behaviour of a sexual nature towards the patient. The Committee also found that Dr. Abelsohn had committed acts of professional misconduct by engaging in acts relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofes-sional. The Committee also found that Dr. Abelsohn was incompetent, in that his 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 demonstrated that he is unfit to continue to practise or that his practice should be restricted. The Committee was divided on whether Dr. Abelsohn "encouraged" the patient to masturbate in his presence, and the Committee therefore made no finding that there was encouragement to masturbate within the meaning of the Code.

Issue #1 – Allegation of Sexual Abuse

The Committee found that Dr. Abelsohn had sexually abused the patient by touching her and by engaging in behaviour of a sexual nature and that he had therefore committed an act of professional misconduct.

The panel considered a number of events that occurred over the two and a half year period when Dr. Abelsohn was treating the complainant in psychotherapy sessions.

Dr. Abelsohn had engaged in regular hugs at the end of sessions. These hugs were brief in duration but regular and repetitive, and occurred at the end of many sessions. The patient introduced the concept of cradling hugs where the patient would lie on the floor in between Dr. Abelsohn's legs with her head on his chest and he would wrap his arms around the patient holding her for a prolonged period of time, often five to ten minutes. Dr. Abelsohn made a practice of engaging in these cradling hugs on numerous occasions.

The patient also requested what she described as scanning or rewiring forms of therapy. In the therapy sessions, Dr. Abelsohn, under the guidance of the patient, would place his hands on top of her hands as she moved her hands across her dressed body, often touching her breasts, her buttocks, her pubic area, her face and her lips. On other occasions, she guided his hands over the same areas.

The patient also requested that the physician participate in re-enacting a rape situation, which the patient had claimed had occurred to her at the hands of her father. On two of these occasions, the physician stood behind the patient, placed his hands around the patient's neck or his hand across her mouth. The patient relived the episode and then imagined the physician rescuing her from this horrendous event.

Near the end of the two and half year therapy sessions, the patient requested that she be able to masturbate in the physician's office. Dr. Abelsohn acceded to her requests. Dr. Abelsohn admitted that he and the patient had discussions before each of these events, that he would then rise from his desk go over and place a pillow on the floor for the patient, sit beside the patient on the floor and that the patient would then masturbate. This occurred on six occasions. On at least two of these occasions, the physician had his hands placed on the patient's chest and, on at least one occasion, he had eye contact with the patient while she masturbated.

The panel accepted that this touching and behaviour constituted sexual abuse, in that it was touching and behaviour of a sexual nature, for which there was no justification, i.e., the touching and behaviour were not of a clinical nature appropriate to the psychotherapy service provided. This touching and behaviour, including the masturbation, is all documented in Dr. Abelsohn's notes and was admitted in his testimony.

The Committee also took into account that the patient had told Dr. Abelsohn on numerous occasions that she was in love with him and wished to have a relationship with him. Notwithstanding this, Dr. Abelsohn continued his therapy sessions with her and engaged in the conduct described.

^ Back to Top

The Committee weighed carefully the evidence that, after the termination of therapy sessions, Dr. Abelsohn continued to meet this patient in public places such as bars and restaurants and she continued to convey her wishes to have a relationship outside of the office setting.

The Committee assessed that there were more than 30 occasions where, because of the various touching and behaviour of a sexual nature, sexual abuse occurred. The Committee concluded that Dr. Abelsohn on each occasion had to make a professional judgment about whether to participate in these various encounters. Each time, Dr. Abelsohn failed to display any evidence of the professional character required of a physician. He failed in his fiduciary responsibilities to the patient by choosing to participate in behaviour that constituted sexual abuse of a patient. His only excuse appeared to be that he felt his participation might help the patient. However, he did appear to recognize that his conduct was not in accordance with professional standards and he ultimately recognized that there was no benefit to this patient during her therapy.

It was quite apparent that Dr. Abelsohn terminated therapy only after the patient had followed him to Ottawa when he had travelled there for a conference.

He recognized the relationship that had developed during the psychotherapeutic sessions would soon become apparent to others. While the patient had displayed increasingly erratic behaviour during the prior six months of her therapy, she was described as remarkably improved and therapy was terminated. There was no documentation to support that the patient had actually improved. It was apparent that therapy had ended as a reaction to the patient following Dr. Abelsohn to Ottawa.

Dr. Abelsohn continued to meet the patient approximately every six months in a public setting. This was despite the fact that Dr. Abelsohn knew and could no longer deny the patient's infatuation with him and desire to have a relationship with him. Despite her repeating these requests, even during these meetings, Dr. Abelsohn continued to meet with her.

The fact that the patient had masturbated six times in the physician's office in the presence of the physician was inexcusable. Dr. Abelsohn had a fiduciary responsibility to his patient to respect her sexual integrity, and by his conduct he violated that duty. Permitting or encouraging her to masturbate in his presence reflected gross misconduct and blatant sexual abuse of the patient that could not be interpreted in any other fashion.

The Committee felt that Dr. Abelsohn could not shirk his responsibility as a physician because the patient was difficult, strong-willed and manipulative. The fact that he had failed to seek medical help in managing this difficult and very ill patient does not excuse his own behaviour. Dr. Abelsohn used the excuse that he believed that he was helping the patient. Although this may have been his intention, there was absolutely no evidence in the chart or by the expert witnesses that this was occurring or that such behaviour as exhibited by Dr. Abelsohn would help her.

Encouragement

While it was clear to the panel that Dr. Abelsohn engaged in behaviour of a sexual nature when he allowed the patient to masturbate in his presence, the Committee also addressed the issue whether Dr. Abelsohn had provided encouragement to the patient to masturbate in his presence. This issue was of special importance as it related to the penalty that would be prescribed. If Dr. Abelsohn was found to have provided encouragement to the patient to masturbate in his presence, the mandatory penalty of revocation of Dr. Abelsohn's certificate of registration would be imposed for a finding of sexual abuse of this nature.

The panel was equally divided on this issue, and accordingly no finding was made that Dr. Abelsohn had encouraged his patient to masturbate in his presence. Two panel members believed that Dr. Abelsohn, by his words and conduct, encouraged the patient to masturbate in his presence. They found that Dr. Abelsohn's actions, by discussing the behaviour prior to it happening, by remaining present in the room while it happened, by positioning himself on the floor beside the patient during the activity, by placing a pillow on the floor for her head, by maintaining eye contact on at least one occasion, and on two occasions allowing his hand to be held to the patient's chest while she masturbated, and by discussing with her afterwards how it helped her, constituted encouragement.

The Committee felt that the level of encouragement required for a finding of "an encouragement to masturbate" was high, because of the mandatory revocation provision. Again, two members of the Committee believed that the conduct of Dr. Abelsohn met that threshold, and that Dr. Abelsohn, by his words and actions, promoted and assisted (i.e., encouraged) the patient to masturbate in his presence. The other two members of the Committee did not find that this threshold was met.

^ Back to Top

Issue #2 – Allegation of Disgraceful, Dishonourable or Unprofessional Conduct

The panel found, on the expert evidence and Dr. Abelsohn's admissions, that this allegation of professional misconduct was proved, in that he engaged in acts relevant to the practice of medicine that would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

The College expert and the defense expert agreed that there had been boundary violations, that Dr. Abelsohn's failure to seek supervision was inappropriate, and that his therapy had no scientific or clinical basis. The Committee also considered the fact that Dr. Abelsohn had continued to meet the patient after the therapy had terminated, and after the patient had conveyed to him that she was in love with him and wished to have an affair with him.

Issue #3 – Allegation of Incompetence

The Committee found Dr. Abelsohn to be incompetent, in that his 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 demonstrated that he is unfit to continue to practise or that his practice should be restricted.

The Committee accepted Dr. Abelsohn's testimony in which he conceded that he lacked the knowledge, skill and judgment to treat the patient with her severe pathology. The expert witnesses, the defense expert and the College expert, testified that there was no acceptable therapeutic basis for the physical contact. The frequent hugs, cradling or parenting hugs, the scanning or rewiring behaviour, the re-enactment of the rape scenarios, which included the therapist, as well as the episodes of masturbation in the presence of the therapist, had no therapeutic basis and could be of no benefit to the patient. Both experts agreed that Dr. Abelsohn was responsible for actions that occur in therapy. Both the defense expert and the College expert agreed that Dr. Abelsohn had a duty to seek supervision in these circumstances and that, while he was aware of this duty to seek supervision, Dr. Abelsohn did not attempt to do so.

Dr. Abelsohn did not discuss his problems managing this patient with a physician with whom he worked. He did not discuss the management problems of this patient with the other therapist that he studied cases with in a group. Dr. Abelsohn failed to turn for medical advice regarding a patient even though he was aware he was no longer able to manage the patient professionally. Both experts recognized that there were many warning signs to his failure to manage this patient, including the patient's frequent unexpected visits to the physician's office and her demands on both the physician and his staff. The experts both recognized that Dr. Abelsohn was unable to maintain appropriate boundaries with this patient and that Dr. Abelsohn committed repeated boundary violations. Dr. Abelsohn was also unable to manage the transference and counter transference that occurred throughout the psychotherapy.

Reasons for Penalty

Counsel for the College and counsel for Dr. Abelsohn made a joint submission on penalty. In the view of the Committee, the penalty proposed is appropriate and just. The Committee concluded that the proposed penalty meets the need for general deterrence as well as specific deterrence against such behaviour by this physician. The Committee considered that the serious findings against this physician were deserving of a serious penalty, and also took into account that the findings were of specific and aberrant behaviour that occurred in this physician's practice. The expert evidence before the Committee indicated that the likelihood of further similar behaviour from this physician was low.

Penalty

The Discipline Committee directed that:

1. The Registrar suspend Dr. Abelsohn's certificate of registration for a period of 12 months;
2. The Registrar impose the following terms, conditions and limitations on Dr. Abelsohn's certificate of registration for an indefinite period of time:
    A. Dr. Abelsohn must successfully complete a boundaries course acceptable to the College at his own expense;
    B. Dr. Abelsohn is prohibited from providing individual psychotherapy to patients, and from providing or billing for any service, which should be billed under the OHIP codes applicable to individual psychotherapy,

^ Back to Top

including K006 and K007. With respect to billing code K005, Dr. Abelsohn shall maintain a separate log by patient name of all services billed under code K005, to be submitted to the Registrar within five days of the end of each month. Dr. Abelsohn may provide family or marital therapy to patients, but may only provide such treatment in the presence of two or more family members or individuals;

C. Dr. Abelsohn will consent to the release of his OHIP billing information to the College; and

D. Dr. Abelsohn will cooperate with any medical inspector chosen by the College who may conduct random inspections of Dr. Abelsohn's OHIP billings and their supporting chart entries for specified codes.

3. Dr. Abelsohn attend before the panel to be reprimanded, with the fact of the reprimand to be recorded on the register.

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