

PROVINCE OF NOVA SCOTIA    )  
COUNTY OF HALIFAX         )

IN THE MATTER OF:       The *Canada Evidence Act*

- and -

IN THE MATTER OF:       The *Medical Act*, R.S.N.S. 1995-96, c.10

- and -

IN THE MATTER OF:       Dr. David Sheehy

**\*\*\*TAKE NOTE THAT A PUBLICATION BAN HAS BEEN  
IMPOSED WITH RESPECT TO THE DISCLOSURE OF CERTAIN  
PORTIONS OF THIS SETTLEMENT AGREEMENT BY ORDER  
OF THE HEARING COMMITTEE DATED JANUARY 3, 2007.  
SEE PARAGRAPH 30 FOR DETAILS OF THE PUBLICATION  
BAN.\*\*\***

### **SETTLEMENT AGREEMENT**

Dr. David Sheehy, a medical practitioner in the Province of Nova Scotia, and a member of the College of Physicians and Surgeons of the Province of Nova Scotia (the "College"), hereby agrees with and consents to the following in accordance with the provisions of the *Medical Act*, R.S.N.S. 1995-96, c.10.

#### **I.     STATEMENT OF FACTS**

1.     Dr. David Sheehy is a 48 year old family practitioner practicing in Shubenacadie, Nova Scotia.

2. Dr. Sheehy graduated from Dalhousie University in 1983. He began his family practice in 1984, and joined the Shubenacadie Heath Centre in 1991. On October 10, 2005 Dr. Sheehy saw Mrs. X at his Health Clinic for a medical issue, when her regular family physician was unavailable. In mid-October 2005 Dr. Sheehy agreed to take on Mrs. X as a regular patient in his Clinic.
3. In the course of Mrs. X becoming a patient of Dr. Sheehy she informed him of her previous medical history, including \_\_\_\_\_ She also informed Dr. Sheehy of her prescribed medications, including \_\_\_\_\_
4. As of late-October 2005, Mrs. X was required to attend Dr. Sheehy's clinic two to three times per week to receive treatment for a particular medical condition. During her regular visits in November 2005, as she became more comfortable with Dr. Sheehy, Mrs. X began discussing her personal family problems with him.
5. In December, 2005 Mrs. X continued to see Dr. Sheehy for her regular medical appointments. She increasingly confided in him regarding her marital situation.
6. In January, 2006 Mrs. X saw Dr. Sheehy for three medical appointments between January 7 and January 14. Prior to January 14 2006 Mrs. X advised Dr. Sheehy of her intention to leave her husband. Dr. Sheehy discussed options available to Mrs. X for housing, including the possibility of going to a shelter. During the January 14, 2006, appointment Mrs. X discussed her marital situation with Dr. Sheehy, at which time Dr. Sheehy provided her with his home phone number, indicating that she could call anytime.
7. Late at night on January 14, 2006 Mrs. X called Dr. Sheehy at his home. She described an argument she had earlier had with her husband. During that conversation Dr. Sheehy made a conscious decision to personally intervene and provide assistance to Mrs. X and her family, and expressed this commitment to her. At some point in this conversation Dr. Sheehy shared with Mrs. X some of his personal experiences about being a single father. Dr. Sheehy found himself experiencing a strong feeling of protectiveness and emotional attachment to Mrs. X.

8. On January 15, 2006 Dr. Sheehy advised Mrs. X that he could no longer be her family physician, as he had become too personally involved in her life. He indicated that although he could no longer be her doctor, he would remain her friend.
9. On January 15, 2006 Dr. Sheehy transferred the medical care of Mrs. X to the care of another physician. Dr. Sheehy made a notation in Mrs. X's patient file on January 15, 2006 "I have become emotionally involved in this patient's personal situation and therefore release from my care mandatory".
10. Between January 15 and January 24, 2006, Dr. Sheehy and Mrs. X spoke on the phone on several occasions. During these conversations Dr. Sheehy advised that he was negotiating the purchase of a house for the specific purpose of renting it to her and her children.
11. On or about January 25, 2006, Mrs. X drove to Dr. Sheehy's house to speak with him. She was emotionally upset at her marital situation and described her personal circumstances to Dr. Sheehy. Mrs. X was crying during this encounter, and leaning her head on Dr. Sheehy's shoulder. When she was preparing to leave Mrs. X and Dr. Sheehy had a prolonged embrace and a kiss.
12. On January 28, 2006, Dr. Sheehy advised Mrs. X that he was making arrangements for a trip to Florida for Mrs. X and her children later in the spring.
13. On the weekend of January 28, 2006, Mrs. X and her husband had an extended argument at their home. The following night, Mrs. X was fearful of her husband and called Dr. Sheehy to inquire whether she and her children could stay at his home for the night. Dr. Sheehy agreed and he slept on the couch, while Mrs. X and her children slept elsewhere in his house.
14. Following this, Dr. Sheehy arranged for and paid for Mrs. X's brother to be flown to Nova Scotia to stay with her and her children in her home.
15. In or around the end of January or the beginning of February 2006 Dr. Sheehy provided money to Mrs. X to help her pay her lawyer's fees in furtherance of her separation from her husband.
16. During the month of February, 2006 Dr. Sheehy visited Mrs. X's home once or twice a week in a social context.
17. During the month of February, 2006 Dr. Sheehy purchased a gift of a necklace for Mrs. X on one occasion, and a gift of a book on another occasion. On one other occasion, Dr. Sheehy purchased a gift of a wall hanging for Mrs. X.

18. On February 24, 2006 Mrs. X and her children moved into a house that Dr. Sheehy purchased for the purpose of lodging her and her family. Dr. Sheehy also purchased furniture for the home. Dr. Sheehy did not move into the home with Mrs. X and her family. He visited frequently, assisting Mrs. X' children with their homework, and spending time with Mrs. X.
19. In March 2006, Dr. Sheehy again flew Mrs. X's brother from out of province to stay with Mrs. X. In April, 2006 Dr. Sheehy and Mrs. X traveled together to visit Mrs. X's family who lived out of the province.
20. In May, 2006 Mrs. X reconciled with her husband and resumed cohabitation with him.
21. Mr. X filed a letter of complaint with the College of Physicians and Surgeons of Nova Scotia dated January 30, 2006, respecting the actions of Dr. Sheehy. The letter of complaint indicated that Mr. X felt Dr. Sheehy had taken advantage of his wife during a period when Mrs. X was experiencing serious health issues.
22. Dr. Sheehy replied to the letter of complaint in a letter to the College dated March 23, 2006. In that letter he admitted he became emotionally attached to Mrs. X on January 15, 2006.
23. Both Mrs. X and Dr. Sheehy confirm that while they did embrace and kiss as described in paragraph 11, there was no sexual contact between them.
24. The Investigation Committee of the College investigated the matter and concluded its investigation in May, 2006.

## II. COMPLAINT

25. At an Investigation Committee "B" meeting on Thursday May 25, 2006, the Committee determined that the complaint against Dr. Sheehy should be referred to a Hearing Committee pursuant to Section 53(12) of the *Medical Act*.

26. A Notice of Hearing issued by the College refers the following allegation of professional misconduct to the Hearing Committee:

That between January 14 and May 2006 Dr. Sheehy crossed professional boundaries during and immediately following the termination of the physician/patient relationship, by becoming emotionally, personally and financially involved in the life of Mrs. X at a vulnerable time in her life.

It is alleged that this boundary violation amounts to professional misconduct.

### **III. ADMISSIONS**

27. Dr. David Sheehy admits the allegation set out in the Notice of Hearing and admits that such boundary violation amounts to professional misconduct.

### **IV. CONSENT TO PENALTY**

28. Dr. David Sheehy hereby consents to the following:

- (a) Dr. Sheehy is reprimanded by the Hearing Committee of the College.
- (b) Dr. Sheehy is suspended from the practice of medicine for a period of one month, which period of suspension has already been served.
- (c) Dr. Sheehy agrees to enroll in and attend at his cost, either the day and a half Ontario College of Physicians and Surgeons course "Understanding Boundary Issues and Managing Risks Inherent in Doctor-Patient Relationships" or the three day Vanderbilt University program "Maintaining Proper Boundaries". Confirmation of Dr. Sheehy's attendance at either of these programs shall be provided to the College on or before May 31, 2007, and if any issues arise respecting the availability of either course prior to May 31, 2007 Dr. Sheehy shall notify the College and with the agreement of the College make appropriate arrangements to attend the next available course.

- (d) Dr. Sheehy's licence to practice medicine shall be restricted until June 30, 2008 to reflect that he is prohibited from engaging in elective "psychotherapy" and "counselling", as those terms are defined in the Preamble to the MSI Physicians' Manual, dated April 2006, an extract of which is attached as Annex "A" to this Settlement Agreement. The College shall advise the office administering Medical Services Insurance of this restriction. Dr. Sheehy agrees that he shall post a sign outlining this prohibition in a part of his office that is visible to patients. The sign shall be removed after June 30, 2008;
- (e) Dr. Sheehy agrees to pay a contribution toward the costs associated with the investigation and conclusion of this complaint, totaling \$3,000, inclusive of HST. This amount may be paid in equal quarterly installments of \$750.00, with the first payment due on or before December 31, 2006 and the final payment due December 31, 2007. In the event costs are not paid in full by December 31, 2007, Dr. Sheehy's licence to practice medicine shall be immediately suspended until such time as payment is received in full.
- (f) Dr. Sheehy agrees that any alleged breach of any provision of this Settlement Agreement shall be reviewed by the Hearing Committee. If the Hearing Committee determines that a breach has occurred, Dr. Sheehy acknowledges that any such breach amounts to professional misconduct and will result in such further disposition as will be determined by the Hearing Committee.

## **VI. EFFECTIVE DATE**

- 29. This Settlement Agreement shall only become effective and binding when it has been recommended for acceptance by the Investigation Committee of the College, and accepted by the Hearing Committee appointed to hear this matter.

# VII. PUBLICATION BAN

30. The Hearing Committee hereby imposes a publication ban with respect to the names of the patient and complainant involved in this matter, any identifying information regarding the patient and the complainant, and any personal health information regarding the patient contained in this Settlement Agreement, and orders that this information shall not be disclosed externally from the College to any third party, with the exception of any physician licensing body in the event Dr. Sheehy applies for a licence to practice medicine in any other jurisdiction. The bolded information in this Settlement Agreement shall be excluded from the publication of this Settlement Agreement on the College's website and from any other source where the Settlement Agreement may be available to third parties other than physician licensing bodies.

DATED at Shubenacadie, Nova Scotia this 14<sup>th</sup> day of December, 2006.

Jacqueline Melrose  
WITNESS

David Sheehy  
DR. DAVID SHEEHY

DATED at Halifax, Nova Scotia this 14<sup>th</sup> day of Dec., 2006.

Kimberly Shears  
WITNESS

Marjorie A. Hickey  
MARJORIE A. HICKEY  
COUNSEL FOR THE COLLEGE OF  
PHYSICIANS AND SURGEONS  
OF NOVA SCOTIA

DATED at Halifax, Nova Scotia this 14 day of Dec., 2006.

Cora Osborne

Barbara Martin  
CHAIR,  
Investigation Committee "B"  
of the College of Physicians and Surgeons  
of Nova Scotia

DATED at Halifax, Nova Scotia this 3<sup>rd</sup> day of January, 2007.

[Signature]  
CHAIR,  
The Hearing Committee  
of the College of Physicians and Surgeons  
of Nova Scotia

## ANNEX "A"

### 8.6 PSYCHOTHERAPY

The following services apply to General Practitioners (See Definition in Section 2.4) and Psychiatrists. Restrictions apply to General Practitioners only.

The provision of psychotherapeutic services by General Practitioners is limited to 20 hours per patient or family or group per physician per year. To exceed this limit for individual patients or families or groups, the General Practitioner must either: document on the chart and notify MSI, through the text field on the service encounter, that a Psychiatrist concurs that extended psychotherapeutic services are needed; or, if the General Practitioner is unable to access a Psychiatric Consultant directly, then the option will be available to obtain an exemption in a timely manner through MSI from a Psychiatric Consultant(s) skilled in psychotherapy and its applications.

#### 8.6.1 Individual Psychotherapy

Individual Psychotherapy is any form of treatment for mental illness, behavioral maladaptions and/or other problems that are assumed to be of an emotional nature in which a physician deliberately establishes a professional relationship with a patient for the purposes of removing, modifying or retarding existing symptoms, of attenuating or reversing disturbed patterns of behavior and of promoting positive personality growth and development.

- (a) Individual Psychotherapy is claimed in 15-minute intervals. The therapist must spend at least 80% of the time claimed in therapeutic intervention with the patient.
- (b) Restrictions (Apply to General Practitioners only)
  - (i) A minimum of 2 intervals must be claimed per visit.
  - (ii) Treatment for medical complaints, acute adjustment reactions or bereavement reactions do not qualify as psychotherapy. They should more appropriately be claimed as counselling.
  - (iii) Unless unusual clinical circumstances can be demonstrated to the Medical Consultant at MSI, individual psychotherapy may not be claimed for the following:
    - More than 90 continuous minutes (or 6 continuous fifteen minute intervals) per patient per day
    - A patient younger than 4 years old
    - More than one General Practitioner treating the same illness for a particular patient

#### 8.6.2 Group Psychotherapy

Group Psychotherapy differs from individual psychotherapy in that it is provided to a group of 4 to 8 individuals per session.

- (a) Group Psychotherapy is claimed in 15 minute intervals. The therapist must spend at least 80% of the time claimed in therapeutic intervention with the group of patients.
- (b) Restrictions (Apply to General Practitioners only)
  - (i) A minimum of 2 intervals must be claimed per group session.
  - (ii) Unless unusual clinical circumstances can be demonstrated to the Medical Consultant at MSI, Group Psychotherapy may not be claimed for the following:
    - More than 2 continuous hours (or 8 continuous fifteen minute intervals) per group per day
    - A group member younger than 4 years old
    - More than one General Practitioner treating the same illness for a particular group of patients

#### 8.6.3 Family Therapy

Family Therapy is defined as psychotherapy in which the therapist regards the patients as a subsystem of a "family" and in which the therapeutic responsibility is not only to the patients but to other family members as well.



- (a) The assessment rules are the same as for Group Psychotherapy, but 2 or more members of the family must be present for the session to qualify as Family Therapy.
- (b) Family Therapy is claimed in 15 minute intervals. The therapist must spend at least 80% of the time claimed in therapeutic intervention with the family.
- (c) Restrictions (Apply to General Practitioners only)
  - (i) A minimum of 2 intervals must be claimed per family session.
  - (ii) Unless unusual clinical circumstances can be demonstrated to the Medical Consultant at MSI, Family Therapy may not be claimed for the following:
    - More than 2 continuous hours (or 8 continuous fifteen minute intervals) per family per day
    - A patient younger than 4 years old
    - More than one General Practitioner treating the same family group

#### 8.7 HYPNOTHERAPY

The following services apply to General Practitioners and Psychiatrists. Restrictions apply to General Practitioners only.

Hypnotherapy is therapy undertaken with a patient who has been placed in an altered state of consciousness.

- (a) Hypnotherapy is claimed in 15-minute intervals. The hypnotherapist must spend at least 80% of the time claimed in direct therapeutic intervention with the patient.
- (b) Physicians practising hypnotherapy should have appropriate training equivalent to that provided by the Nova Scotia Society of Clinical Hypnosis workshops.
- (c) Restrictions (Apply to General Practitioners only):
  - (i) A minimum of two intervals must be claimed per session.
  - (ii) Unless unusual clinical circumstances can be demonstrated to the Medical Consultant at MSI, hypnotherapy may not be claimed for the following:
    - More than 10 hours per patient per physician per year
    - More than 90 continuous minutes (or 6 continuous intervals) per patient per day
    - A patient younger than 4 years old
    - More than one General Practitioner treating the same illness for a particular patient

#### 8.8 COUNSELLING

The following services and restrictions apply to General Practitioners only.

- (a) Counselling is a prolonged discussion directed at addressing problems associated with acute adjustment reactions or bereavement reactions.
- (b) Counselling may be claimed in 15-minute intervals. At least 80% of the time claimed must be spent in direct patient intervention.
- (c) Restrictions  
Unless unusual clinical circumstances can be demonstrated to the Medical Consultant at MSI, counselling may not be claimed for the following:
  - More than 5 hours per patient per physician per year
  - More than 1 hour per patient per day
  - A patient younger than 4 years old
  - More than one General Practitioner providing counselling to a particular patient

#### 8.9 LIFESTYLE COUNSELLING

The following services and restrictions apply to General Practitioners only.

Lifestyle Counselling is a prolonged discussion where the physician attempts to direct the patient in the proper management of health related concern; e.g., lipid or dietary counselling, AIDS advice, smoking cessation, healthy heart advice, etc.

- (a) Lifestyle Counselling may be claimed in 15-minute intervals. At least 80% of the time claimed must be spent in direct patient intervention.

- (b) Restrictions - Unless unusual clinical circumstances can be demonstrated to the Medical Consultant at MSI, lifestyle counselling may not be claimed for the following:
- More than 2 hours per patient per physician per year
  - More than 30 minutes per patient per day
  - A patient younger than 4 years old
  - More than one General Practitioner providing lifestyle counselling to a particular patient at the same service encounter