



## Dr. Mohammed ABED

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### Council Decision

<b>Date Charge(s) Laid:</b>	October 5, 2015
<b>Outcome Date:</b>	January 22, 2016
<b>Hearing:</b>	Completed
<b>Disposition:</b>	Suspension, Ethics Course
<b>Reasons for Decision:</b>	June 24, 2016

### Penalty Decision

The Council of the College of Physicians and Surgeons imposes the following penalty on Dr. Mohammed Abed pursuant to **The Medical Profession Act, 1981**:

- 1) Pursuant to Section 54(1)(b) of The Medical Profession Act, 1981, the Council hereby suspends Dr. Mohammed Abed for a period of two months. The suspension will begin on a date selected by Dr. Abed which must be on or before February 21, 2016. If Dr. Abed does not notify the Registrar's office in writing prior to February 21, 2016 of the date for the commandment of his suspension, that two month suspension will begin at 12:01 a.m. on February 21, 2016;
- 2) Pursuant to section 54 (1) (g) of The Medical Profession Act, 1981, Dr. Mohammed Abed is required to take an Ethics program in a form acceptable to the Registrar on or before July 21, 2016. The programs "Medical Ethics, Boundaries and Professionalism" by Case Western Reserve University and "Probe Program" by CPEP are ethics programs acceptable to the Registrar.

**IN THE MATTER OF A SECTION 54 OF THE MEDICAL PROFESSION ACT, 1981  
PENALTY HEARING FOR DR. MOHAMMED ABED**

Mr. Richard Morris appearing for Dr. Mohammed Abed

Mr. Bryan E. Salte Q.C. appearing for the  
College of Physicians and Surgeons of Saskatchewan

Friday 22 January, 2016  
College of Physicians and Surgeons of Saskatchewan Boardroom

**REASONS FOR DECISION**

**Charges**

Dr. Mohammed Abed had signed an undertaking on May 25, 2012 which stated “*I will immediately cease performing obstetrical and pelvic ultrasound and will not perform obstetrical or pelvic ultrasound until I receive the approval of the College of Physicians and Surgeons to do so.*” This was obtained as the result of an audit of Dr. Abed’s interpretation and ultrasound skills performed by the Advisory Committee on Medical Imaging (ACMI) in March 2012. The ACMI concluded that Dr. Abed’s provision of ultrasound service to patients had not met the expected standard.

On December 17, 2014 Medical Services Branch of the Ministry of Health advised the College that Dr. Abed had been billing for interpreting ultrasound. The College informed Dr. Abed on December 29, 2014 that the College was concerned he had breached the undertaking. On January 16, 2015 Dr. Abed’s legal counsel responded that he had breached the undertaking with respect to performing 6 ultrasounds, but that he was the only one who could perform these ultrasounds in a timely fashion. Dr. Abed admitted he did breach the undertaking and signed the charge October 27, 2015 set out below.

*I, Dr. Mohhamed Abed, pursuant to Section 49 of the Medical Profession Act, 1981 admit that I am guilty of unbecoming, improper, unprofessional, or discreditable conduct as set out in the charge laid by the Executive Committee of the College and Physicians and Surgeons which states:*

1. You Dr. Mohammed Abed are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of section 46(o) of the Medical Profession Act, 1981 s.s. 1980-81 c. M-10.1

The evidence that will be led in support of this charge will include one or more of the following:

- a) On or about May 25, 2012 you signed an undertaking, which stated the following: I will immediately cease performing obstetrical and pelvic ultrasound and will not perform obstetrical or pelvic ultrasound until I receive the approval of the College of Physicians and Surgeons to do so;

b) You breached that undertaking by continuing to perform obstetrical and/or pelvic ultrasound after the date of your undertaking without receiving the approval of the College of Physicians and Surgeons to do so.

### **The College's Position**

The College takes the position that a penalty of a 2 month suspension from clinical practice and an ethics course would be appropriate.

The College considers a breach of an undertaking a serious matter. The issue of patient safety is foremost in the penalty position adopted by the Registrar's Office. When there is a problem with a physician's performance identified by the College, the College frequently relies upon physician undertakings to address those problems. Breaching an undertaking intended to provide patient protection is a very serious breach of medical ethics.

Patient safety concerns are further exacerbated by Dr. Abed's statement that there was an urgent need to perform ultrasound to deal with a patient's medical condition. The review of Dr. Abed's ultrasound practice demonstrated significant concerns about him being able to perform these at an acceptable level. Dr. George Carson in his role as obstetrical member of the ACMI, was tasked with clinical review of the cases in question. Following a review of the cases in question, Dr. Carson's letter dated December 17, 2015 stated he did not find any indications for ultrasound in 5 of the 6 cases he reviewed and if ultrasound was used it would be part of the consult and not billable.

The College cites two cases from the College of Physicians and Surgeons of Ontario.

1. Dr. Kwame Attuah - 2013

In 2010 Dr. Attuah entered into an undertaking to limit his practice to obstetrics and gynecology and see no more than 75 patients a week. He breached his undertaking by seeing more than 75 patients per week and treating male and child patients. He was suspended for 3 months and required to pay costs of \$4460.

2. Dr. Brian Gay - 2005

In 1999 Dr. Gay entered into an undertaking to cease all primary care practice and restrict his practice to surgery. Dr. Gay breached his undertaking and was suspended for 2 months and ongoing monitoring. Also required to pay fixed costs of \$2500.

### **Dr. Abed's Position**

Counsel for Dr. Abed suggests a penalty of a reprimand and maximum fine of \$2000.00.

In a letter dated January 16, 2015 Dr. Abed promptly admitted the breach and provided an explanation of the circumstances surrounding the breaches. He stated that he did not knowingly breach the undertaking in relation to 8 services. He knowingly breached the undertaking in 6 cases. These patients he felt would be harmed by the wait time for ultrasound and he was the

only one capable of providing timely ultrasound. Therefore he felt compelled to perform these ultrasounds.

Dr. Abed has read Dr. Carson's response dated December 17, 2015. There is some disagreement with the points emphasized by Dr. Carson. Dr. Abed submits that the breaches were only done in the best interests of the patient and not for financial gain. Counsel for Dr. Abed cited the same 2 cases as the College. He pointed out several differences in each case when compared College arguments. Dr. Attuah was found by the College to have a cavalier approach when dealing with the College. Dr. Attuah was repeatedly dishonest. Dr. Attuah revealed himself to be untrustworthy and careless with his privileges.

Dr. Gay was dishonest and he repeatedly and clearly exceeded the scope of practice that was open to him.

Counsel for Dr. Abed cites Dr. Lau (RE), (2014) OCPD No 2. Dr. Lau admitted his breach and cooperated with the College. Dr. Lau's breaches were few and not self-motivated but by patient wishes and Dr. Lau acceded to those wishes. No patient harm occurred. Penalty was a reprimand and costs. This was reduced from a 3 month suspension.

Dr. Abed's breaches were few, only 6 knowingly and 8 unintentional and there was no patient harm. Dr. Abed responded fully and frankly to the College's concerns.

## Reasons for Decision

### Principles in Establishing the Penalty

- **Protection of the Public**

Council recognizes Dr. Abed's long service to his community. The Council is not aware of any harm to patients that resulted from the breaches. Council notes the reason for the undertaking in the first place was to protect the public from substandard ultrasound technique and interpretation, as it had been determined by ACMI in March 2012 that Dr. Abed was not practicing ultrasound at an acceptable standard and that he should not be doing it.

It is a concern for Council that Dr. Abed feels compelled to perform urgent ultrasounds on his patients in the patients' best interests when the College has already told him he does not perform to an acceptable standard to do these ultrasounds. If Dr. Abed had his patients' best interests at heart would it not be appropriate to have them obtain an ultrasound that could be done at an acceptable standard.

Dr. Abed apologized to Council for breaching his undertaking. Council recognizes this apology. On questioning however, Dr. Abed continued to try to justify why he performed these ultrasounds. The Council is concerned that by breaching the undertaking Dr. Abed put his patients' best interests at risk, contrary to what he believes.

▪ **Deterrence**

The undertaking was signed to ensure that Dr. Abed would not perform specified ultrasound services. Council should assume that a signed undertaking with the College would be sufficient to deter a physician from any breaches. Dr. Abed knowingly admitted to breaching his undertaking 6 times in the “best interests” of his patients. During the penalty hearing Dr. Abed spoke of the reasons why he breached his undertaking. Council was unconvinced that any reasons he provided were sufficient to allow for a breach. Dr. Abed was also asked what would keep him from breaching the undertaking again. He stated that having to face Council again would stop him. It was unclear from his answer whether he truly believes what he did was wrong. The Council has concern that should a situation arise where Dr. Abed felt that his patient required an urgent ultrasound that he would be compelled to perform this service even if it breached his undertaking.

Council questions Dr. Abed’s remorse. He seems to have justified the breaches to himself that there was an urgent need to perform these ultrasounds. The Council is concerned about the lack of insight by Dr. Abed into the breaches that occurred.

▪ **Remediation and Rehabilitation.**

Dr. Abed has been in practice since 1969. He is now 79 years of age. The ethics course suggested by the College may help Dr. Abed with insight into the reasons behind the breach and the discipline he now faces. The Council felt Dr. Abed lacked insight and was at risk of breaching the undertaking again as he tried to justify and minimize the gravity of the breaches.

▪ **Public Interest**

The public must have confidence in the medical profession and in its ability to effectively self regulate. The undertaking still allowed Dr. Abed to practice clinical medicine. Due to knowingly breaching an undertaking Council felt that a suspension was in order. The breach was serious and requires sanctions. There is concern by the Council that breaches might occur again and therefore suspension as deterrence and public protection was in order.

The Council adopted the following resolution:

The Council of the College of Physicians and Surgeons impose the following penalty on Dr. Mohammed Abed pursuant to the *Medical Professions Act, 1981*:

1. Pursuant to Section 54(1)(b) of the *Medical Profession Act, 1981*, the Council hereby suspends Dr. Mohammed Abed for a period of two months. The suspension will begin on a date selected by Dr. Abed, which must be on or before February 21, 2016. If Dr. Abed does not notify the Registrar’s office in writing prior to February 21, 2016 of the date for the commencement of his suspension, that two month suspension will begin at 12:01 AM on February 21, 2016;
2. Pursuant to Section 54(1)(g) of the *Medical Profession Act, 1981*, Dr. Mohammed Abed is required to take an Ethics program in a form acceptable to the Registrar on or before

July 21, 2016. The programs “Medical Ethics, Boundaries and Professionalism” by Case Western Reserve University and “Probe Program” by CPEP are ethics programs acceptable to the Registrar.

Accepted by Council: Friday June 24, 2016