



Dr. Ashis PAUL

Council Decision

Date Charge(s) Laid:	March 30, 2019
Outcome Date:	March 19, 2021
Penalty Hearing:	March 19, 2021
Disposition:	Reprimand, Conditions, Costs

The Council of the College of Physicians and Surgeons imposes the following penalty on Dr. Ashis Paul pursuant to *The Medical Profession Act, 1981* (the “Act”):

- 1) Pursuant to Section 54(1)(e) of the Act, the Council hereby reprimands Dr. Paul. The format of that reprimand will be in written format.
- 2) Pursuant to section 54(1)(g) of *The Medical Profession Act, 1981*, Council requires that within 6 months Dr. Paul successfully complete an ethics course on professionalism to the satisfaction of the Registrar. Such course shall be completed at the first available date. The programs “Medical Ethics, Boundaries and Professionalism” by Case Western Reserve University, “Probe Program” by CPEP and “Medical Ethics and Professionalism” by Professional Boundaries Inc., are ethics programs acceptable to the Registrar.
- 3) Pursuant to section 54(1)(g) of *The Medical Profession Act, 1981*, Council requires that within 6 months Dr. Paul successfully complete an accredited course on medical recordkeeping, to be approved in advance by the Registrar, and will provide proof of completion.

The programs “Medical Record Keeping” by ProBE/CPEP, “Medical Record Keeping” by PACE, “Medical Record Keeping” by PBI, “Medical Record Keeping” by the University of Toronto, and “Medical Record Keeping for Physicians” by the College of Physicians and Surgeons of British Columbia are programs acceptable to the Registrar.

- 4) Pursuant to section 54(1)(i) of the Act, the Council directs Dr. Paul to pay the costs of and incidental to the investigation and hearing in the amount of \$19,600.88. Such payment shall be made in full by 30 September, 2021.
- 5) Pursuant to section 54(2) of the Act, if Dr. Paul should fail to pay the costs as required by paragraph 4, Dr. Paul’s licence shall be suspended until the costs are paid in full.
- 6) Council reserves to itself the right to reconsider and amend the time within which payment of costs must be made set out in paragraph 5 and the right to reconsider and amend the requirements of the retraining or education set out in paragraphs 3 and 4.

Such reconsideration shall only be done if requested by Dr. Paul.



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REGISTRAR
KAREN SHAW, M.D.

21 June, 2021

Dr. A. Paul

[REDACTED]

Regina
Saskatchewan

[REDACTED]

Dear Dr. Paul,

You Dr. Paul having been found guilty of unprofessional conduct on March 19, 2021 are hereby reprimanded by the Council of the College of Physicians and Surgeons of Saskatchewan.

The care you were providing to methadone patients did not meet the standards and guidelines set out by the College of Physicians and Surgeons of Saskatchewan.

You were in a conflict of interest at the methadone clinic you worked at. You paid for services, staff, and/or premise that was not a fair reflection of their value.

The patients that attended your clinic for addiction treatment are some of our most vulnerable and complex patients. They often have histories of abuse, trauma, mental health and other physical health issues. These patients deserve the most comprehensive and careful care. The College standards and guidelines are there to support you to practice in a safe and effective manner.

You failed these patients. Your lack of adherence to the standards and guidelines left these patients without the support they require to succeed in their struggle with addiction.

The Council hopes that the ethics course and record keeping course will benefit your practice going forward.

The Council of the College of Physicians & Surgeons of Saskatchewan

***To serve the public by regulating the practice of medicine
and guiding the profession to achieve the highest standards of care***

**In the matter of a Penalty Hearing before the Council of the College of
Physicians and Surgeons of Saskatchewan and Dr. Ashis Paul**

March 19, 2021

Summary of the Decision

A penalty hearing for Dr. Paul was held before the Council on March 19, 2021. Dr. Paul was present and was represented by Mr. Nicholas Cann. Ms. Rochelle Wempe presented the position of the Registrar's Office.

Dr. Paul pled guilty to two charges of unprofessional conduct following an investigation by a preliminary inquiry committee.

At the March 19, 2021 penalty hearing, the Council imposed a reprimand, a requirement that Dr. Paul completes an ethics course and medical record keeping course, and an order to pay costs in the amount of \$19 600.88.

The Charges against Dr. Paul

Dr. Paul was charged with the following unprofessional conduct, which were admitted to, and signed March 2, 2021 by Dr. Paul;

1. *The Council of the College of Physicians and Surgeons directs that, pursuant to section 47.5 of The Medical Profession Act, 1981, the Discipline Committee hear the following charge against Dr. Ashis Paul, namely:*

You, Dr. Ashis Paul, are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of Section 46(o) and/or section 46(p) of The Medical Profession Act, 1981 S.S. 1980-81 c. M-10.1 and/or bylaw 8.1(b)(ix) and/or bylaw 23.1 and/or paragraphs 1, 2, and/or 4 of bylaw 7.1 of the bylaws of the College of Physicians and Surgeons of Saskatchewan.

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

- a) You failed to maintain the standard of practice of the medical profession in relation to the use of carried doses when prescribing methadone;*
- b) Your medical records for patients receiving methadone prescriptions were inadequate and/or failed to meet the requirements of College regulatory bylaw 23.1*

- c) You failed to make appropriate arrangements for counselling for your patients and/or failed to record information related to such counselling;*
 - d) You failed to follow College of Physicians and Surgeons Standards and Guidelines on the prescribing of methadone related to the use of ECGs and carried doses;*
2. *The Council of the College of Physicians and Surgeons directs that, pursuant to section 47.5 of The Medical Profession Act, 1981, the Discipline Committee hear the following charge against Dr. Ashis Paul, namely:*

You, Dr. Ashis Paul, are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of Section 46(o) and/or section 46(p) of The Medical Profession Act, 1981 S.S. 1980-81 c. M-10.1 and/or bylaw 9.1 and/or paragraphs 7 and/or 11 of bylaw 7.1 of the bylaws of the College of Physicians and Surgeons of Saskatchewan.

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

- a) You carried out the practice of medicine at Parliament Methadone Clinic located on Dewdney Avenue, Regina, Saskatchewan;*
- b) You had a conflict of interest in relation to your practice of medicine associated with Parliament Methadone Clinic;*
- c) The amount which you paid for the use of the premises and/or staff and/or services provided to you was not a fair reflection of the value of the premises and/or staff and/or services;*
- d) You were aware that the patients to whom you prescribed methadone at the Parliament Methadone Clinic generally were dispensed methadone at R & C Drugs;*
- e) R & C Drugs was located in close proximity to Parliament Methadone Clinic;*
- f) You caused Medical Services Plan to be billed for urine drug screens which, if done at all, were not done by you or your staff;*

The Position of the Registrar's Office

The position of the Registrar's Office was that the Council should impose the following penalty:

- 1) A one-month suspension;

- 2) A reprimand. The Council will need to determine whether the reprimand is an in-person reprimand or a written reprimand;
- 3) A requirement that Dr. Paul complete an ethics course;
- 4) A requirement that Dr. Paul complete a medical record keeping course;
- 5) Payment of the costs associated with the investigation and penalty hearing.

The Position of Dr. Paul's Counsel

Dr. Paul does not take issue with the reprimand, ethics course or record keeping course. Dr. Paul does take issue with the suspension which he considers unjustified in relation to the conduct admitted. Dr. Paul also disputes the amount of costs claimed by the Registrar.

Council's Penalty Decision

The Council of the College of Physicians and Surgeons imposes the following penalty on Dr. Ashis Paul pursuant to **The Medical Profession Act, 1981** (the "Act"):

- 1) Pursuant to Section 54(1)(e) of the Act, the Council hereby reprimands Dr. Paul. The format of that reprimand will be in writing.
- 2) Pursuant to section 54(1)(g) of The Medical Profession Act, 1981, Council requires that within 6 months Dr. Paul successfully complete an ethics course on professionalism to the satisfaction of the Registrar. Such course shall be completed at the first available date. The programs "Medical Ethics, Boundaries and Professionalism" by Case Western Reserve University, "Probe Program" by CPEP and "Medical Ethics and Professionalism" by Professional Boundaries Inc., are ethics programs acceptable to the Registrar.
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4) Pursuant to section 54(1)(i) of the Act, the Council directs Dr. Paul to pay the costs of and incidental to the investigation and hearing in the amount of \$19 600.88. Such payment shall be made in full by September 30, 2021.

5) Pursuant to section 54(2) of the Act, if Dr. Paul should fail to pay the costs as required by paragraph 4, Dr. Paul's licence shall be suspended until the costs are paid in full.

6) Council reserves to itself the right to reconsider and amend the time within which payment of costs must be made set out in paragraph 5 and the right to reconsider and amend the requirements of the retraining or education set out in paragraphs 3 and 4. Such reconsideration shall only be done if requested by Dr. Paul.

Points in Issue - Suspension

Registrar

The Registrar's Office argues that a one month suspension is in order. The Registrar's Office takes the position that the nature and gravity of Dr. Paul's actions were significantly serious enough to warrant a suspension. The patients who attended Parliament Methadone Clinic for their addiction treatment are some of the most vulnerable in society. Not only do they suffer from addictions but many struggle with unemployment, homelessness, histories of trauma, and other significant health issues. They are complex patients who require highly involved multi-disciplinary care.

Dr. Paul failed to provide these vulnerable patients with the care they needed and deserved. The Registrar's Office argues that a message must be sent to Dr. Paul and other methadone/OATP providers in this province that physicians must follow the current OATP Guidelines and Standards and must provide these vulnerable patients with the care they deserve. The Registrar's Office argues that imposing a short suspension will maintain the public's confidence that physicians will be held accountable and the public will be protected. The Registrar's Office argues that a short suspension is in line with the Dr. Van Rensburg case in Saskatchewan and case law from Ontario. Although none of the cases involved methadone prescribing, most included improper prescribing and inadequate medical record keeping, amongst other issues. The Registrar's Office acknowledges that many of the Ontario cases did not involve a suspension.

Dr. Paul

Dr. Paul's counsel agrees that one of the expectations in imposing a penalty is that the penalty falls within the range of what has been imposed for similar conduct in Saskatchewan or elsewhere, and that individual facts must be taken into consideration when applying these principles. Dr. Paul's counsel submits that the cases referred to by the Registrar's Office to justify a one month suspension are not similar and any suspension would be outside of the range of what has been imposed for similar conduct.

Dr. Paul has admitted to failing to fully follow the standards and guidelines of the College of Physicians and Surgeons with specific respect to the prescribing of methadone carries, obtaining ECGs, and overseeing counselling. Dr. Paul has also admitted that his methadone record-keeping was inadequate with reference to the requirements of CPSS Bylaw 23.1. It must be taken into consideration that Dr. Paul is not guilty of practicing below the requisite standard of care of a physician, nor is there any evidence of a risk of harm to patients or the public.

Dr. Paul's care was reviewed by two experts: Dr. Joel Bordman and Dr. Mat Rose. Both experts concluded that Dr. Paul met the standard of care required of a methadone prescribing physician, despite the instances they identified where Dr. Paul did not comply with the methadone prescribing standards and guidelines. This is a crucial factor when Council is considering the appropriate penalty.

As noted by the Registrar's Office there are a number of mitigating factors at play in Dr. Paul's case. He pled guilty to the charges and avoided a lengthy hearing. He was fully cooperative with CPSS throughout the process and voluntarily stopped prescribing methadone. Dr. Paul has supportive expert opinions from two qualified experts. Most importantly there is no evidence of patient harm.

Points in Issue - Costs

Registrar's Office

The Registrar's Office submits that this was a complicated and lengthy investigation. The PIC Report was 31 pages long and included 3 appendices. Appendix 1 included 23 items, copies of the Act and Bylaws as well as numerous CPSS guidelines and standards. Appendix 2 included a lengthy chart audit of 12 of Dr. Paul's patients as well as medical charts. Appendix 3 included interview summaries, can says of witnesses, MSB records, day sheets, correspondence with the College and correspondence from the Prescription Review Program. The Registrar's Office concludes that a great deal of time and effort went into the investigation and preparing the report.

It is the Registrar's Office's position that had the third charge not been investigated and not charged, the costs would be reduced by somewhere in the range of a third to a half but definitely no more than a half. Short of having a forensic accountant go through the costs in detail, it is submitted that Dr. Paul should be given the benefit of the doubt and the costs of the investigation and in-house legal fees should be reduced by half. The expert report of Dr. Rose would remain in full as it only relates to the first charge which Dr. Paul has admitted. Half of the in-house legal costs is \$5,955.00 and half of the PIC costs is \$12,708.38, therefore the total costs the Registrar's Office is seeking, including Dr. Rose's report, is \$19,600.88. This is a fair and appropriate calculation of costs, taking into account the charges which Dr. Paul has admitted to and those which the College did not proceed with.

Dr. Paul

The PIC costs are unreasonably high, particularly in consideration of the fact that they inappropriately combined two investigations without clarity on apportionment and that they inappropriately opined on the care provided by Dr. Paul and made inflammatory and demonstrably incorrect allegations about Dr. Paul and his practice. The actions of the PIC and the associated costs were unnecessary and resulted in a lengthy report, and therefore costs that were exorbitantly high, both in isolation and when compared to situations involving much more serious and/or complex issues. Counsel for Dr. Paul opines that if the PIC had conducted a reasonable investigation, remained within the scope of their expertise, consulted proper experts, and refrained from making damaging allegations without evidence, this matter could have been resolved with a much shorter report and much earlier. It is also important to note that very little of what the PIC concluded in their Report resulted in the charges Dr. Paul admitted to.

The costs being sought are inconsistent with the principles of proportionality and the reasonable expectations of parties in light of cases which involved more serious and/or complex breaches.

The costs being sought will have a dangerous ripple effect on the decision-making of other physicians in whether to proceed in defending charges alleged against them or attempting to resolve them early.

Discussion

The Council considered both parties' arguments regarding a suspension. Counsel for Dr. Paul was persuasive in arguing against a suspension. The Council agreed that the Dr. Van Rensburg case, where a one month suspension was levied, was more

egregious than Dr. Paul's case. In Dr. Van Rensburg's case there was concern for patient harm and remediation attempts were forwarded by the College early on. The Council also agreed with Dr. Paul's counsel that Dr. Paul met the standard of care of a methadone prescriber, even though Dr. Paul did not follow the CPSS Standards and Guidelines for methadone prescribing. The Council is not aware of any patient harm that resulted from Dr. Paul not following the CPSS standards and guidelines. Counsel for Dr. Paul also submits that Dr. Paul is no longer prescribing methadone and there were no concerns over Dr. Paul's family practice.

The Registrar's Office did not sufficiently convince the Council that a suspension would be warranted. The Council agrees that this population is in need of exceptional medical care and coordination as they are often vulnerable and have complex medical needs. Dr Paul is no longer prescribing methadone and therefore Council did not consider that a suspension was needed for public protection or that it would provide specific or general deterrence. The Council did not consider that the conflict of interest admission was worthy of a suspension and would be addressed by the ethics course.

The Council appreciates that the costs involved in this investigation were significant. Council notes that costs in general are going up as complaints and the investigation of these complaints become more complex. Council, in general, believes that the physician member is responsible for all costs associated with the investigation of that members conduct if found guilty. This cost should not be borne by the membership. However, as noted by Mr. Salte in his book *The Law of Professional Regulation, 2015*, the costs should not be so large as to be punitive nor should they be so large as to deter a member from raising a legitimate defense.

The Council agreed with the Registrar's Office that considerable time and effort went into the investigation. The Council also agreed that due to one charge being dropped, the costs should be reduced by 50%.

Dr. Paul's counsel pointed out numerous issues including combining investigations and lack of clarity on apportionment. These factors were considered in reducing the costs.

**Accepted by the Council of the College of Physicians & Surgeons of
Saskatchewan: 18 June, 2021**