



Dr. Gregory DALSHAUG

Council Decision

Date Charge(s) Laid:	December 14, 2021
Outcome Date:	June 18, 2022
Penalty Hearing:	June 18, 2022
Disposition:	Reprimand, Suspension, Conditions, Fine, Costs

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

1. Pursuant to Section 54(1)(e) of *The Medical Profession Act, 1981*, the Council hereby reprimands Dr. Dalshaug. The format of that reprimand will be in written format.
2. Pursuant to Section 54(1)(b) of the Act, the Council hereby suspends Dr. Dalshaug for a period of 6 months commencing 15 July, 2022.
3. Pursuant to Section 54(1)(g) of the Act, the Council requires that Dr. Dalshaug successfully complete a course on ethics/professionalism acceptable to the Registrar, and provide proof of completion. Such course shall be completed at the first available date, but in any case within six months. The programs “Medical Ethics, Boundaries and Professionalism” by Case Western Reserve University and “Medical Ethics and Professionalism (ME-15 Extended)” by PBI Education are ethics programs acceptable to the Registrar.
4. Pursuant to section 54(1)(f) of *The Medical Profession Act, 1981*, Council imposes a fine of \$15,000.00 on Dr. Dalshaug, payable on or before 31 December, 2022.
5. Pursuant to section 54(1)(i) of the Act, the Council directs Dr. Dalshaug to pay the costs of and incidental to the investigation and hearing in the amount of \$1,710.00. The costs shall be payable in full by 31 December, 2022.
6. Pursuant to section 54(2) of the Act, if Dr. Dalshaug should fail to pay the costs as required by paragraph 5, Dr. Dalshaug’s licence shall be suspended until the costs are paid in full.
7. The Council reserves to itself the right to amend any of the terms of this penalty decision, upon application by Dr. Dalshaug. Without limiting the authority of the Council, the Council may extend the time for Dr. Dalshaug to pay the fine or costs required by paragraph 4 or paragraph 5.



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REGISTRAR
KAREN SHAW, M.D.

3 October, 2022

Dr. G. Dalshaug



Dr. Dalshaug:

On the 18 June 2022, the Council of the College of Physicians and Surgeons of Saskatchewan accepted your admission of professional misconduct while practising medicine in the province of Saskatchewan. You are hereby reprimanded by the Council of the College of Physicians and Surgeons of Saskatchewan.

The Council considered factors of your misconduct. All physicians who provide care in Saskatchewan are bound to maintain adequate records of care provided and anything otherwise may constitute professional misconduct. To maintain the public confidence Council is adamant that any form of professional misconduct by a physician will be punished. Your actions were deliberate and fraudulent depriving your colleagues of their earned incomes and Council directs that this should not go unpunished.

You took it on yourself to establish that your services were not adequately compensated, and falsifying patient records in order to obtain payment for services you did not provide is fraudulent practice. You should consider yourself very fortunate to work with colleagues who are magnanimous in this matter; potentially avoiding criminal prosecution when the matter came to light.

During deliberations the Council noted disappointment in your actions. Your actions were self-motivated and showed lack of collegiality and empathy towards your colleagues and their loss of income. Your actions were contrary to the core values of our highly esteemed and honourable profession.

You have brought disrepute on yourself and on the profession of medicine. The Council cannot condone this type of behaviour and you are hereby reprimanded.

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. Gregory Dalshaug**

June 18, 2022

Summary of the Decision

Dr. Dalshaug appeared before the Council for a penalty hearing on June 18, 2022. Dr. Dalshaug was represented by Mr. Collin Hirschfeld, Q.C. Mr. Bryan Salte, Q.C. presented the position of the Registrar's Office.

Dr. Dalshaug admitted the following charge of unprofessional conduct:

*You Dr. Gregory Dalshaug are guilty of unbecoming, improper, unprofessional or discreditable conduct contrary to the provisions of section 46(k) and/or 46(o) of **The Medical Profession Act, 1981**, S.S. 1980-81, c. M-10.1. Particulars of that conduct are that you altered electronic records which resulted in you being paid for services which were provided by other physicians.*

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

- 1) Over a period of several years you altered electronic records to indicate that you were the assistant surgeon for surgeries in which other physicians were the assistant surgeon;*
- 2) The effect of the alteration of these records was that you received payment for medical services provided by other physicians.*

Council imposed the following penalty:

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- 2. Pursuant to Section 54(1)(b) of the Act, the Council hereby suspends Dr. Dalshaug for a period of 6 months commencing 15 July, 2022.*

3. Pursuant to Section 54(1)(g) of the Act, the Council requires that Dr. Dalshaug successfully complete a course on ethics/professionalism acceptable to the Registrar, and provide proof of completion. Such course shall be completed at the first available date, but in any case within six months. The programs “Medical Ethics, Boundaries and Professionalism” by Case Western Reserve University and “Medical Ethics and Professionalism (ME-15 Extended)” by PBI Education are ethics programs acceptable to the Registrar.
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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 suspension from practice in the range of three to six months.
2. Council has considered it appropriate to impose a fine in addition to a suspension in cases of inappropriate billing for physician services. Inappropriate billing provides an unearned financial benefit to the physician. In such a situation a fine is appropriate. The maximum fine in the legislation is \$15,000. The Registrar’s Office did not take a position on what amount was appropriate.
3. A requirement to take an ethics course.
4. Payment of costs.
5. A reprimand in the terms developed by the Council. The Council could determine whether an in-person reprimand was appropriate.

In his submission, legal counsel for the Registrar’s Office emphasized the following:

1. Honesty is essential to the practice of medicine. Dishonesty brings disrepute to the medical profession. Dishonesty can result in a loss of public confidence in physicians and their ethical standards.
2. An essential element of imposing penalty is maintaining the confidence of the public that the College will take appropriate action against a physician who has engaged in unprofessional conduct.
3. While there had been no criminal complaint filed, Dr. Dalshaug's conduct likely met the requirements to prove fraud and forgery contrary to the *Criminal Code* of Canada.
4. Dr. Dalshaug's conduct was deliberate and calculated. It was done in such a way that it was not detected for at least 7 years.
5. Fraudulently depriving colleagues with whom a physician works of income that they have earned is very disruptive to an appropriate working environment. A disruptive working environment will often result in risk and insecurity in the clinical environment.

Counsel for the Registrar's Office suggested that the most relevant comparators for penalty for the type of unprofessional conduct were the College's penalty decisions for Dr. Chikukwa and Dr. Chambers, the decisions of the discipline committee of the College of Physicians and Surgeons related to Dr. Martinez, Dr. Barabtarlo, Dr. Michael and Dr. Makerewich, and the decision of the Ontario College of Physiotherapists related to Mr. Cunanan. The penalties imposed ranged from a one month suspension to revocation.

Counsel for the Registrar's Office stated that the penalties imposed at the lower end of the range had mitigating factors that were not present with respect to Dr. Dalshaug and that the penalties at the upper end of the range had aggravating factors that were not present with respect to Dr. Dalshaug.

Counsel for the Registrar's Office stated his position that the period in which Dr. Dalshaug withdrew from practice was not a relevant consideration in imposing penalty. That withdrawal from practice was done voluntarily. The College had taken no action that resulted in Dr. Dalshaug's withdrawal from practice.

Dr. Dalshaug's Position

Counsel for Dr. Dalshaug submitted that the following penalty was appropriate:

1. A written reprimand.
2. A suspension of one to three months, with credit given for one month of voluntarily not practicing.
3. A requirement to successfully complete a course on medical ethics and professionalism.
4. Payment of costs.

In his submission, legal counsel for Dr. Dalshaug emphasized the following:

1. Dr. Dalshaug had accepted responsibility for his actions and has made full restitution to his affected colleagues.
2. Dr. Dalshaug has no previous records of unprofessional conduct. He admitted his conduct thereby saving a lengthy hearing and investigation.
3. Dr. Dalshaug had suffered public humiliation and had lost his career and practice.
4. Dr. Dalshaug was no longer conducting cardiac surgery and was limiting his role to assisting only. His physician and OR colleagues were supportive of him continuing with the assisting role given its impact on patients and the workload.
5. Dr. Dalshaug was at very low risk of further unprofessional conduct.
6. Dr. Dalshaug's conduct did not involve patient safety.
7. Dr. Dalshaug voluntarily stopped practicing from April 1, 2022 to May 2, 2022 which should be considered in ordering the length of suspension.

Dr. Dalshaug's counsel suggested that the most relevant comparators for penalty for the type of unprofessional conduct were the College's penalty decisions for Dr. D. Opper, Dr. A. Ali and Dr. E. Steenberg, and the decisions of the discipline committee of the College of Physicians and Surgeons related to Dr. Barabtarlo, Dr. Goldstein, Dr. Makerewich and Dr. Sokol. The suspensions ordered in those matters ranged from one month to three months.

Points in Issue

1. What length of suspension should Council order?
2. Should Council impose a reduction in the suspension that it would otherwise order due to Dr. Dalshaug's withdrawal from practice for the month of April?
3. Should Council impose a fine in addition to a suspension?

Reasons for Decision

Council reviewed the oral and verbal submissions of both legal counsel for the Registrar's Office and legal counsel for Dr. G. Dalshaug.

Much deliberation took place comparing the Dr. Chikukwa case with that of Dr. Dalshaug's. The Dr. Chikukwa case involved a similar scenario where the physician in question, deliberately and fraudulently, inflated billings to the Medical Services Branch. Dr. Chikukwa was suspended for four months and required to take an ethics course. Dr. Chikukwa was also criminally convicted of fraud, and this sentence may have influenced Council's imposition of penalty for the unprofessional conduct. While in this case, the money was taken not from the public purse, but

from Dr. Dalshaug's colleagues, Council felt this distinction that the money was taken from his colleagues and not the public purse was immaterial. Council considered the mitigating factors put forth by Dr. Dalshaug's counsel. These factors included that Dr. Dalshaug had, upon discovery of his diversion of funds, immediately apologized to his colleagues and repaid the amounts taken. Also that this type of unprofessional conduct was an isolated incident and was unlikely to be repeated. In addition, his colleagues that were victims of the diversion of funds, had accepted his apology and wished him to return to clinical service. While Council accepted the letters of support from Dr. Dalshaug's colleagues, we also considered that the motivation for such letters may include the desire to share a heavy workload in a small department, by having him return to work as soon as possible.

Council also considered legal counsel for Dr. Dalshaug's argument that suspension should be reduced given Dr. Dalshaug's voluntary suspension from practice of one month. Precedent brought forth was that of Ontario College of Teachers v Seymour, where the affected member removed himself from teaching, and the Ontario College of Teachers took that into account when imposing sentence. CPSS Council did not accept this as a relevant to this case, as Dr. Dalshaug's voluntary removal from practice was entirely on his own accord, and had not been instigated by any order or instruction from the Registrar's Office. Furthermore, we are left to speculate as to the actual reason for his leave from practice, as no evidence was presented as to what this time was used for.

Aggravating factors were also considered and focused on the following.

Dr. Dalshaug repeatedly and deliberately altered patient records for his own benefit. The patient record is a critically important document that must be considered sacred, as it represents an objective account of what occurred during the course of patient care. Alterations to this record, place into question the validity of the document and could conceivably, lead to patient harm. Furthermore, the conduct continued for over seven years. The original explanation from Dr. Dalshaug was that this deliberate diversion of money was to compensate for being paid inadequately for his teaching as compared to his colleagues. Council was not swayed by this position, as this discrepancy between payment of faculty ended in 2015, and yet Dr. Dalshaug continued this diversion for many years afterwards. Finally, had this pattern of conduct not been discovered by Dr. Dalshaug's colleagues, it is extremely likely that this fraudulent activity would still be occurring to this day.

While it could be claimed that there was no direct harm to patient care due to Dr. Dalshaug's unprofessional conduct, Council feels that there certainly could be consequences of this behaviour. Cardiac surgery is a specialty that relies explicitly on teamwork and honest exchange of information. It is self-evident that this theft of

funds from his colleagues could jeopardize this team environment, and lead to tension amongst the clinicians, and thereby imperil patient care.

Counsel for Dr. Dalshaug submitted that the amounts of theft were “small” in relation to the total amount of billings. Council did not accept this argument, in that the amounts in question are still extremely significant to most members of the public.

While Dr. Dalshaug was not charged with fraud, and Council cannot speculate on whether such a charge would be proven in a court of law, it does appear that this case does meet the definition of fraud as seen in the Criminal Code of Canada.

Finally, as Dr. Dalshaug works in an academic environment where students and residents work closely with him, Council felt adamant that this type of unprofessional conduct and diversion of funds be firmly and resolutely condemned. It must be obvious to all learners observing the outcome of this case that such behaviour will not be tolerated and that if and when discovered the full weight of sanction from the CPSS will be applied.

In totality, when Council reviewed the evidence presented with the aggravating and mitigating factors, it was felt that the penalty for these charges should be on the higher end of the spectrum with a six month suspension, a written reprimand, payment of costs, a mandatory ethics course and the maximum fine of \$15,000.

**Accepted by the Council of the College of Physicians & Surgeons of
Saskatchewan: 1 October, 2022**