



Dr. Ali Mohammed Abdul-Razak AL-KHAFAJI

Council Decision

Date of CPSO Proceedings:	September 21, 2022
Outcome Date:	November 25, 2022
Penalty Hearing:	Completed
Hearing:	Not required
Disposition:	Reprimand, Revocation, Conditions, Costs

Council took action pursuant to section 54.01 of *The Medical Profession Act, 1981* based upon a finding of unprofessional conduct by the Ontario Physicians and Surgeons Discipline Tribunal ("OPSDT"). Details of the OPSDT decision are available on the [CPSO public register](#). The OPSDT revoked Dr. Al-Khafaji's licence, imposed a reprimand, required him to reimburse the CPSO for funding provided to the complainant, and required him to pay costs.

After considering the information presented to the Council, the Council imposes the following penalties on Dr. Ali Mohammed Abdul-Razak Al-Khafaji pursuant to sections 54.01 and 54 of *The Medical Profession Act, 1981* (the "Act"):

- 1) Pursuant to section 54(1)(e) of the Act, the Council hereby reprimands Dr. Al-Khafaji. The format of the reprimand will be in person. Dr. Al-Khafaji is required to appear before the next regularly scheduled meeting of the Council to be present to have the reprimand administered in person.
- 2) Pursuant to section 54(1)(a) of the Act, the name of Dr. Ali Mohammed Abdul-Razak Al-Khafaji is struck from the Register of the College of Physicians and Surgeons of Saskatchewan, effective November 25, 2022.
- 3) Pursuant to section 54(1)(a) of the Act, Dr. Al-Khafaji shall not be eligible to have his name restored to the Register until the following conditions are met:
 - a. A period of 3 years has elapsed from the effective date of revocation of his licence; and
 - b. The Council receives a satisfactory report from a professional person, persons or organization acceptable to the Council which attests that Dr. Al-Khafaji has undertaken counselling at his expense for sexual abuse, has gained insight into the matter and has achieved a measure of rehabilitation which protects the public from risk of future harm from Dr. Al-Khafaji. Such a report may be provided by Alliance Assessment Center in Houston, TX or such other persons or organizations that are acceptable to the College of Physicians and Surgeons of Saskatchewan; and
 - c. The Council receives evidence that Dr. Al-Khafaji has successfully completed a boundaries course acceptable to the Council.

- 4) Dr. Ali Mohammed Abdul-Razak Al-Khafaji may apply to have his name restored to the Register any time after conditions b. and c. are met, provided that the restoration will take effect only after the expiry of the 3-year period referenced in condition a.
- 5) Pursuant to section 54(1)(i) of the Act, the Council directs Dr. Al-Khafaji to pay the costs of and incidental to the investigation and hearing in the amount of \$1,410.00, payable forthwith.



*College of
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REGISTRAR
KAREN SHAW, M.D.

30 January, 2023

Dr. A. Al-Khafaji

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dr. Al-Khafaji:

On 21 September 2022, the Ontario Physicians and Surgeons Discipline Tribunal revoked your licence to practise medicine in that province. Subsequently the Registrar’s Office of the College of Physicians and Surgeons of Saskatchewan convened a Penalty Hearing under Section 54.01 of *The Medical Profession Act, 1981*.

The Council of the College of Physicians and Surgeons of Saskatchewan imposed penalty to include this reprimand. Given the gravity of your misconduct you have been summoned to The College to have your reprimand issued.

You, Dr. Ali Mohammed Abdul-Razak Al-Khafaji while being a duly licenced medical practitioner in Saskatchewan and having been found guilty of professional misconduct while practicing medicine in the province of Ontario are hereby reprimanded by the Council of the College of Physicians and Surgeons of Saskatchewan.

Your misconduct strikes at the very heart of medical ethics. Every practitioner is aware from their very earliest encounters with medicine, that you may not enter into a sexual relationship with a person for whom you are providing medical care. Despite this very fundamental pillar of medical ethics, you have proceeded to deliberately enter into such a relationship. You continued to provide medical care to your patient up to and including submitting claims for payment for that care. The temerity of your actions challenges credulity.

Continued.....

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

Your actions become even more heinous when one considers that your patient suffers from diagnoses which render her particularly vulnerable. There can be no excuse offered to either justify or mitigate the severity of your misconduct. This Council is appalled by your actions.

The decisions you have made and the actions you have taken have brought disrepute onto yourself and the profession. You have caused harm to your patient, your family and yourself.

It is the sincere hope of this Council that you will continue to pursue self-improvement such that when you have served your deserved term of revocation, you might be able to return to the practise of medicine as a more ethical person than when you were forced to leave it.

Council of the College of Physicians & Surgeons of Saskatchewan



In the Matter of an Application under S. 54.01 before the Council of the College of Physicians & Surgeons of Saskatchewan and Dr. Ali Mohammed Abdul-Razak Al-Khafaji

November 25, 2022

Mr. C. Ouellette, Legal Counsel appearing on behalf of Dr. A. Al-Khafaji

Ms. S. Torrance, Legal Counsel appearing on behalf of the College of Physicians & Surgeons of Saskatchewan

Summary of the Decision

The Registrar's Office brought an application pursuant to section 54.01 of *The Medical Profession Act, 1981*. The Council had to decide whether to impose a penalty, and if so, to determine an appropriate penalty for Dr. Ali Al-Khafaji with respect to his admission of unprofessional conduct in Ontario.

The College of Physicians and Surgeons of Ontario (CPSO) revoked Dr. Al-Khafaji's licence following his admission and the tribunal's finding of unprofessional conduct involving a sexual relationship with a vulnerable patient.

Council decided as follows:

After considering the information presented to the Council, the Council imposes the following penalties on Dr. Ali Mohammed Abdul-Razak Al-Khafaji pursuant to sections 54.01 and 54 of The Medical Profession Act, 1981 (the "Act"):

1) Pursuant to section 54(1)(e) of the Act, the Council hereby reprimands Dr. Al-Khafaji. The format of the reprimand will be in person. Dr. Al-Khafaji is required to appear before the next regularly scheduled meeting of the Council to be present to have the reprimand administered in person.

2) Pursuant to section 54(1)(a) of the Act, the name of Dr. Ali Mohammed Abdul-Razak Al-Khafaji is struck from the Register of the College of Physicians and Surgeons of Saskatchewan, effective November 25, 2022.

3) Pursuant to section 54(1)(a) of the Act, Dr. Al-Khafaji shall not be eligible to have his name restored to the Register until the following conditions are met:

a. A period of 3 years has elapsed from the effective date of revocation of his licence; and

b. The Council receives a satisfactory report from a professional person, persons or organization acceptable to the Council which attests that Dr. Al-Khafaji has undertaken counselling at his expense for sexual abuse, has gained insight into the matter and has achieved a measure of rehabilitation which protects the public from risk of future harm from Dr. Al-Khafaji. Such a report may be provided by Alliance Assessment Center in Houston, TX or such other persons or organizations that are acceptable to the College of Physicians and Surgeons of Saskatchewan; and

c. The Council receives evidence that Dr. Al-Khafaji has successfully completed a boundaries course acceptable to the Council.

4) Dr. Ali Mohammed Abdul-Razak Al-Khafaji may apply to have his name restored to the Register any time after conditions b. and c. are met, provided that the restoration will take effect only after the expiry of the 3 year period referenced in condition a.

5) Pursuant to section 54(1)(i) of the Act, the Council directs Dr. Al-Khafaji to pay the costs of and incidental to the investigation and hearing in the amount of \$1,410.00, payable forthwith.

The Position of the Registrar's Office

Dr. Al-Khafaji's licence to practise medicine in Ontario was revoked on the basis of his admission of sexual misconduct. Council has the ability to act under section 54.01 of *The Medical Profession Act, 1981* and take any of the actions authorized by section 54 of *The Act* based upon the Ontario finding.

The position of the Registrar's Office was that considering the conduct admitted by Dr. Al-Khafaji, the Council should impose the following penalty:

- 1) A revocation of Dr. Al-Khafaji's licence with a defined period of ineligibility to apply for restoration;
- 2) Setting conditions that must be met prior to Dr. Al-Khafaji being able to apply for restoration which should include completing a boundaries course and undergoing a multi-disciplinary assessment.

The Registrar's Office also took the position that the presumptive penalty in the CPSS Sexual Boundaries policy (mandatory revocation with a minimum 3-year period of ineligibility) applied because the policy expressly addressed retrospectivity by stating that the policy applied "to any penalty for sexual misconduct imposed by the Council" once the policy was adopted, "whenever

the misconduct occurred.” The Registrar’s Office also argued that although the CPSS policy had not been amended to add the presumptive penalty by July 2019 (when the conduct occurred), the legislation in Ontario where Dr. Al-Khafaji was practicing at the time included mandatory revocation with a minimum 5-year period of ineligibility.

Dr. Al-Khafaji’s Position

Counsel for Dr. Al-Khafaji argued that that the presumptive penalty in the CPSS Sexual Boundaries policy, should not apply in this case due to the fact that the sexual misconduct in question commenced before the policy was amended in 2020 and that any penalty which would take Dr. Al-Khafaji out of practice for longer than 12 months was unreasonable considering the many mitigating factors present in his case, including Dr. Al-Khafaji’s willingness for continued practice monitoring.

Council’s Decision

After considering the information presented to the Council, the Council imposes the following penalties on Dr. Ali Mohammed Abdul-Razak Al-Khafaji pursuant to sections 54.01 and 54 of The Medical Profession Act, 1981 (the "Act"):

1) Pursuant to section 54(1)(e) of the Act, the Council hereby reprimands Dr. Al-Khafaji. The format of the reprimand will be in person. Dr. Al-Khafaji is required to appear before the next regularly scheduled meeting of the Council to be present to have the reprimand administered in person.

2) Pursuant to section 54(1)(a) of the Act, the name of Dr. Ali Mohammed Abdul-Razak Al-Khafaji is struck from the Register of the College of Physicians and Surgeons of Saskatchewan, effective November 25, 2022.

3) Pursuant to section 54(1)(a) of the Act, Dr. Al-Khafaji shall not be eligible to have his name restored to the Register until the following conditions are met:

a. A period of 3 years has elapsed from the effective date of revocation of his licence; and

b. The Council receives a satisfactory report from a professional person, persons or organization acceptable to the Council which attests that Dr. Al-Khafaji has undertaken counselling at his expense for sexual abuse, has gained insight into the matter and has achieved a measure of rehabilitation which protects the public from risk of future harm from Dr. Al-Khafaji. Such a report may be provided by Alliance Assessment Center in Houston, TX or such other persons or organizations that are acceptable to the College of Physicians and Surgeons of Saskatchewan; and

c. The Council receives evidence that Dr. Al-Khafaji has successfully completed a boundaries course acceptable to the Council.

4) *Dr. Ali Mohammed Abdul-Razak Al-Khafaji may apply to have his name restored to the Register any time after conditions b. and c. are met, provided that the restoration will take effect only after the expiry of the 3 year period referenced in condition a.*

5) *Pursuant to section 54(1)(i) of the Act, the Council directs Dr. Al-Khafaji to pay the costs of and incidental to the investigation and hearing in the amount of \$1,410.00, payable forthwith.*

Points in Issue

1. Should Council impose a penalty pursuant to S. 54.01 for Dr. Al-Khafaji's admission of unprofessional conduct in Ontario?
2. If so, what is an appropriate penalty?
3. What is the effect of the presumptive penalty in the CPSS sexual misconduct policy?

Reasons for Decision

The Registrar of the College of Physicians and Surgeons of Saskatchewan applied to Council to determine whether a penalty should be imposed, and if so what penalty, for Dr. Ali Al-Khafaji. This followed Dr. Al-Khafaji's admission to the College of Physicians and Surgeons of Ontario ("CPSO") and finding of the Ontario Physicians and Surgeon's Discipline Tribunal ("OPSDT") that he had committed professional misconduct involving a sexual relationship with a vulnerable patient. The particulars of that conduct are found in the Decision of the OPSDT.

The CPSO revoked Dr. Al-Khafaji's medical licence effective 21 Sep 2022, with no ability to re-apply for admission for a minimum of 5 years. The revocation for a minimum period of 5 years and a reprimand are mandatory in Ontario for such conduct pursuant to the *Health Professions Procedural Code*, which is a schedule to Ontario's *Regulated Health Profession Act*.

Council was asked to decide whether to impose a penalty based upon a penalty imposed by another College. Council's ability to impose this penalty is set out in sections 54 and 54.01 of *The Medical Profession Act, 1981*.

Council considered the following key factors. First, Dr. Al-Khafaji admitted the conduct and that it is egregious. This is a significant breach of trust of a vulnerable patient. The CPSO and this Council view this as unprofessional conduct. Dr. Al-Khafaji's behavior was found by the CPSO to be "deeply troubling", "an egregious breach of public trust" and that it "damaged the confidence that the public places in the integrity of the medical profession." This Council agrees.

Second, the CPSO revoked Dr. Al-Khafaji's licence. In its reprimand, the CPSO noted "The public expects and demands that physicians act with integrity and in their patients' best interests while providing the highest quality of health care possible. This reprimand and the revocation of your certificate of registration sends a strong message that we will not tolerate members who abuse their power and privilege in the community for their own gratification."

Third, when determining penalty, and in particular, whether a revocation is warranted for proven sexual misconduct, Council must be able to do so while maintaining the confidence of the public in the College's ability to effectively regulate the profession in the public interest. Allowing Dr. Al-Khafaji to remain in practice in Saskatchewan, when the Ontario College has concluded that public protection requires it to revoke his licence, is likely bring the College into disrepute.

In January 2020, the CPSS Council adopted amendments to its Sexual Boundaries policy. In this amendment, Council established a *presumptive penalty* with respect to specific forms of sexual misconduct (including sexual intercourse between a regulated member and a patient of that regulated member). The presumptive penalty will include revocation without the ability to apply for restoration for a *minimum period of three years*. In addition, there is a presumptive requirement that before applying for restoration, the regulated member must provide a satisfactory report detailing remediation/rehabilitation.

Council has decided to apply the presumptive penalty to Dr. Al-Khafaji. Council made this decision based on the considerations outlined above. Council recognizes the importance of acknowledging the facts surrounding Dr. Al-Khafaji's case. Most notably, the patient in question was determined to be vulnerable; Dr. Al-Khafaji provided treatment for her during the sexual relationship and billed the public system for that treatment; and finally, that Ontario specifically noted in its reprimand that the patient was "particularly vulnerable," and that Dr. Al-Khafaji's actions resulted in her "suffering significant and ongoing distress."

Counsel for Dr. Al-Khafaji argued that the conduct occurred prior to the January, 2020, amendments to the Sexual Boundaries policy, and that the presumptive penalty should not be applied retrospectively to that conduct. Council noted that the conduct commenced in July 2019 and continued until March 2020. It is therefore a situation in which the conduct commenced shortly before and continued after the amendments. It is not a situation where the policy is being applied to conduct that occurred many months or years before the policy, or where there has

been a significant shift in societal attitudes to such conduct between the time of the conduct and the adoption of the policy.

The policy also expressly addressed its retrospective application. The presumptive penalty is to apply “to any penalty for sexual misconduct imposed by the Council whenever the misconduct occurred”.

As well, Ontario legislated its presumptive penalty in 2017, at a time when Dr. Al-Khafaji was practicing in Ontario. He would or should have been aware that his conduct would attract significant penalty from professional bodies regulating his practice.

For these reasons, Council has decided to apply the presumptive penalty to Dr. Al-Khafaji. Council is mandated to, above all else, maintain the public’s confidence that their protection is paramount. Dr. Al-Khafaji’s actions in Ontario are of such a serious nature that to not impose the presumptive penalty would jeopardize public confidence in Council.

Accordingly, Council resolved as follows:

After considering the information presented to the Council, the Council imposes the following penalties on Dr. Ali Mohammed Abdul-Razak Al-Khafaji pursuant to sections 54.01 and 54 of The Medical Profession Act 1981 (the "Act"):

- 1) Pursuant to section 54(1)(e) of the Act, the Council hereby reprimands Dr. Al-Khafaji. The format of the reprimand will be written.
- 2) Pursuant to section 54(1)(a) of the Act, the name of Dr. Ali Mohammed Abdul-Razak Al-Khafaji is struck from the Register of the College of Physicians and Surgeons of Saskatchewan, effective November 25, 2022.
- 3) Pursuant to section 54(1)(a) of the Act, Dr. Al-Khafaji shall not be eligible to have his name restored to the Register until both of the following conditions are met:
 - a. A period of 3 years has elapsed from the effective date of revocation of his licence; and
 - b. The Council receives a satisfactory report for a professional person, persons or organization chosen by the Council which attests that Dr. Al-Khafaji has undertaken counselling at his expense for sexual abuse, has gained insight into the matter and has achieved a measure of rehabilitation which protects the public from risk of future harm from Dr. Al-Khafaji. Such a report may be

provided by Alliance Assessment Center in Houston, TX or such other persons or organizations that are acceptable to the College of Physicians and Surgeons of Saskatchewan; and

c. The Council receives evidence that Dr. Al-Khafaji has successfully completed a boundaries course acceptable to the Council.

4) Dr. Ali Mohammed Abdul-Razak Al-Khafaji may apply to have his name restored to the Register any time after conditions b. and c. are met, provided that the restoration will take effect only after the expiry of the 3 year period referenced in condition a.

5) Pursuant to section 54(1)(i) of the Act, the Council directs Dr. Al-Khafaji to pay the costs of and incidental to the investigation and hearing in the amount of \$1,410.00, payable forthwith.

**Accepted by the Council of the College of Physicians & Surgeons of Saskatchewan: 28
January, 2023**