



Dr. Naveen TANDON

Council Decision

Effective Date:	January 24, 2020
Outcome Date:	January 24, 2020
Hearing:	Completed
Disposition:	Restriction on Practice

The Council imposes the following penalty on Dr. Tandon pursuant to sections 54 and 54.01 of *The Medical Profession Act, 1981*:

1. Pursuant to section 54(1)(c) Dr. Tandon is prohibited from providing primary care in any location in Saskatchewan, including (but not limited to) as a family physician or in a walk-in or urgent care setting.
2. Dr. Tandon is prohibited from providing any insured services as defined by the Medical Services Branch.
3. The Council reserves to itself the right to reconsider and amend the restriction on Dr. Tandon's medical practice as set out in paragraphs 1 and 2.



In the matter of a penalty hearing before the Council of the College of Physicians and Surgeons of Saskatchewan and Dr. Naveen Tandon January 24, 2020

Summary of the Decision

Dr. Tandon appeared before the Council for a penalty hearing on January 24, 2020. Dr. Tandon was represented by Matthew Wiens. Bryan Salte, Q.C. presented the position of the Registrar's Office.

Dr. Tandon entered into an undertaking with the College of Physicians and Surgeons of Ontario (CPSO) in which the complaints under review by CPSO were resolved by Dr. Tandon agreeing to restrict his practice in that province.

The Council acted under sections 54.01 and 54 of *The Medical Profession Act, 1981* and ordered that:

1. Dr. Tandon is prohibited from providing primary care in any location in Saskatchewan, including (but not limited to) as a family physician or in a walk-in or urgent care setting.
2. Dr. Tandon is prohibited from providing any insured services as defined by the Medical Services Branch.

The restriction in the undertaking signed by Dr. Tandon with CPSO

The undertaking signed by Dr. Tandon with CPSO contained a number of provisions. Among them were that Dr. Tandon agreed to restrict his practice. The undertaking stated:

- (a) I, Dr. Tandon, undertake that I will not provide primary care in any location in Ontario, including (but not limited to) as a family physician or in a walk-in or urgent care setting.
- (b) I, Dr. Tandon, undertake that I will not submit any claims for payment to OHIP, nor will I provide to any patient any insured service as defined by the Health Insurance Act,

R.S.O. 1990, c.H.6 and the Schedule of Benefits: Physicians Services under the Health Insurance Act, as amended from time to time.

- (c) I, Dr. Tandon, undertake that if I wish to practise in any area of medicine in Ontario other than primary care medicine (which I am restricted from practising under paragraph 6(a) above), I will not do so until I have obtained the approval of the College through its change of scope process, including by completing and submitting for consideration the relevant application for changing my scope of practice in compliance with the College's policy on Ensuring Competence: Changing Scope of Practice and/or Re-entering Practice, or any College policy regarding physicians changing the scope of their practice in effect at the relevant time.
- (d) Without restricting the generality of the foregoing, if I decide to practise in Ontario in an area of medicine other than primary care medicine in future, at a minimum I, Dr. Tandon, shall complete a change of scope program that includes at least six (6) months of clinical supervision by a College-approved clinical supervisor, and an assessment of my practice six (6) months thereafter.

The Position of the Registrar's Office

- a. Mr. Salte presented verbal arguments in addition to those already considered in Council document Info 19_20. The written submission included a summary of the alleged concerns of the CPSO represented by six complaints against Dr. Tandon. Further argument was presented, in addition to the written information and appendices provided to Council in document Info 07_20, outlining Council's authority pursuant to section 54.01 of *The Medical Profession Act, 1981*.
- b. The Registrar proposes Dr. Tandon be restricted from primary care, but he be permitted to continue to deliver cosmetic procedures in addition to Opioid Agonist Therapy (OATP) and addictions care under close supervision. He indicated it would be an anomaly if Dr. Tandon was prohibited from providing primary care in Ontario but could do so in Saskatchewan. He further argued protection of the public is paramount as per section 69.1 of *The Medical Profession Act, 1981*.
- c. Mr. Salte argued various aggravating factors exist which do not support a full primary care practice regardless of the CPSS's ability to supervise. The summary of alleged deficiencies would likely have proceeded to discipline in Ontario in the absence of a signed undertaking. The CPSS may not investigate the allegations as they are extra-jurisdictional. Council must inform its own processes in part based on the assumption

that CPSO did its investigation in an appropriate manner and upon Dr. Tandon's lack of willingness to contest the allegations.

- d. The Registrar's Office reminded Council that current concerns with respect to the standard of care delivered by Dr. Tandon in Saskatchewan are subject to an alternate dispute resolution process mandated by the Executive Committee. The undertaking currently in place was signed prior to CPSS being apprised of the concerns of CPSO with respect to Dr. Tandon's alleged deficiencies of care.
- e. Mr. Salte argued concerns regarding diminished access to care for Dr. Tandon's patients in the event of a restricted practice are not supported by the case law presented in *Visconti v. The College of Physicians and Surgeons of Alberta*, 2012 ABCA 46.
- f. Mr. Salte presented arguments in support of allowing Dr. Tandon to deliver care in the areas of addictions and OATP. These arguments focused on the assumption that such a practice would be subject to a higher degree of oversight.

Dr. Tandon's Position

- a. Counsel for Dr. Tandon presented verbal arguments in addition to those already considered in Council document Info 18_20.
- b. Counsel for Dr. Tandon recognized the nature and need for reciprocity between CPSO and CPSS with respect to restrictions placed on Dr. Tandon's practice.
- c. Counsel for Dr. Tandon identified a significant time (5-8 years) has elapsed since the deficient practice is alleged to have occurred and steps have been taken to resolve areas of alleged deficiency which would permit a return to supervised full family practice.
- d. Counsel for Dr. Tandon reinforced the areas of deficient practice investigated in Ontario were alleged and there was no admission of guilt on the part of Dr. Tandon, nor was there a finding of misconduct from the CPSO as the undertaking was signed in order to avoid a contested discipline hearing in Ontario. Dr. Tandon signed the undertaking in Ontario as he wanted to avoid a costly hearing and had decided to stop primary care practice in Ontario.
- e. Counsel for Dr. Tandon argued with appropriate supervision, Dr. Tandon could practice the full scope of family practice in Saskatchewan. Dr. Tandon is of the opinion the restrictions on practice contained within the undertaking were only required when a practice supervision strategy could not be coordinated between Ontario and Saskatchewan. As Dr. Tandon no longer practices in Ontario, his counsel opined CPSS would be in a better position to establish parameters for supervised practice in

Saskatchewan that would serve to protect the public while enabling a more fulsome scope of practice for Dr. Tandon.

- f. Counsel for Dr. Tandon clarified to Council Dr. Tandon's current practice serves a compromised and high-needs area of Saskatoon, and as such, any restrictions on his ability to deliver full-service family practice will further disenfranchise the patients he serves. It was recognized service to this high-needs population would have to be delivered at the same standard as it is to any other population in the province.
- g. Dr. Tandon recognizes he signed the undertaking in Ontario and CPSS is within its rights to accept or modify these restrictions as is seen fit. While Dr. Tandon hopes no restrictions to practice would be necessary in the setting of appropriate supervision, he specifically requests at the very least, he be able to continue to offer cosmetic procedures in addition to opioid agonist therapy and addictions services.
- h. Counsel for Dr. Tandon suggested any or all restrictions placed on Dr. Tandon's practice could be subject to review at a later point in time.
- i. Written arguments submitted on behalf of Dr. Tandon argue concerns arising from Dr. Tandon's practice in Saskatchewan were considered appropriately managed by a repeat chart audit which has yet to occur. Therefore, it would follow allowing Dr. Tandon to continue in practice with adequate supervision would in fact represent a higher degree of vigilance toward the protection of the public than already suggested by CPSS with respect to its own concerns.

Council's Decision

The Council imposes the following penalty on Dr. Tandon pursuant to sections 54 and 54.01 of *The Medical Profession Act, 1981*:

1. Pursuant to section 54(1)(c) Dr. Tandon is prohibited from providing primary care in any location in Saskatchewan, including (but not limited to) as a family physician or in a walk-in or urgent care setting.
2. Dr. Tandon is prohibited from providing any insured services as defined by the Medical Services Branch.
3. The Council reserves to itself the right to reconsider and amend the restriction on Dr. Tandon's medical practice as set out in paragraphs 1 and 2.

Point in Issue

What is the appropriate penalty, if any, pursuant to sections 54 and 54.01 of *The Medical Profession Act, 1981*?

Reasons for Decision

Authority for our decision:

1. a. Section 54.01 of *The Medical Profession Act, 1981* gives the Council the authority to order a penalty authorized by section 54 of the *Act*. We are satisfied the legislative and evidentiary requirements under section 54.01 of the *Act* have been met.

b. The terms of the undertaking and the reference in the undertaking to Ontario legislation make it clear, the undertaking constitutes a restriction on Dr. Tandon's licence, permit or other authorization to practise medicine. That satisfies the requirements of the section.

The Medical Profession Act, 1981 states:

Discipline in another jurisdiction

54.01(1) In this section, "external regulatory body" means a body that is responsible for licensing or regulating physicians or podiatric surgeons in a jurisdiction other than Saskatchewan.

(2) Subject to subsection (3), the council may impose one or more of the penalties set out in section 54 on a person registered under this Act where, before or after registration under this Act:

(a) the person is found by an external regulatory body to have done or failed to have done any act or thing and, in the opinion of the council, that act or failure is unbecoming, improper, unprofessional or discreditable; or

(b) the person's licence, permit or other authorization to practise medicine or podiatric surgery has been suspended, restricted or revoked by an external regulatory body.

(3) Before imposing a penalty pursuant to subsection (2), the council must:

(a) give the person registered under this Act an opportunity to be heard; and

(b) have evidence satisfactory to the council that the person registered under this Act is the person against whom the action described in clause (2)(a) or (b) was taken.

(4) For the purposes of this section, the council may accept a certified copy of the record of the findings made or the action taken by an external regulatory body as proof, in the absence of evidence to the contrary, of the findings made or the action taken by that body, without proof of the signature of the person purporting to have signed on behalf of that body.

Ontario findings and decision:

1. a. The full text of Dr. Tandon's undertaking is available in Council document Info 07_20.

i. The undertaking was negotiated with Dr. Tandon while he had legal representation and was signed by Dr. Tandon with the advice of counsel available to him as per Appendix B Section C.11 of the undertaking.

ii. The deficiencies alleged by the CPSO were not contested by Dr. Tandon in a discipline hearing. It was Dr. Tandon's right to contest if he so desired, and he made the decision not to contest with legal counsel available to him.

b. CPSS cannot reinvestigate the deficiencies investigated in Ontario. Despite the fact the investigation did not proceed past the preliminary inquiry stage in Ontario, the undertaking was signed by Dr. Tandon. Despite the absence of an admission or finding of guilt, Council viewed the signing of an undertaking as having some weight in support of the alleged deficiencies in practice. If this had not been the case, Dr. Tandon could have contested the allegations to prove his innocence. Alternatively, Dr. Tandon could have avoided a hearing by relinquishing his license in Ontario altogether with no restrictions. Dr. Tandon made the informed decision to enter into an undertaking with CPSO. In so doing, he accepted the risk such an undertaking must have on current and future medical practice in other jurisdictions based on the reciprocity which exists between medical regulatory authorities in Canada.

c. Dr. Tandon signed the undertaking as of September of 2019. This implies significant currency to this matter.

- 2) The seriousness of the complaints against Dr. Tandon in Ontario was considered a major aggravating factor in the decision of Council. These complaints cross a wide array of ethical obligations of a physician. The fact Dr. Tandon elected not to contest such a wide variety of severe charges in Ontario does not serve to support the allegations are untrue. The findings of the investigation committee with respect to the allegations moved Council to consider had any of the six alleged behaviors occurred in Saskatchewan, with similar investigative conclusions being reached, a discipline process would almost certainly have ensued.
- 3) The currency of the concerns regarding Dr. Tandon's practice were considered. The Council considered Dr. Tandon's discipline history in Saskatchewan. Past concerns raised by JMPRC were felt to be manageable with a future chart audit. Specific to the alleged concerns raised by CPSO, Council recognizes Dr. Tandon has documented some corrective measures to improve his practice in the years since the allegations were raised. There was, however, not sufficient evidence presented his practice has improved or the training taken was sufficiently related to providing primary care. In addition, it was felt to be very

significant to Council Dr. Tandon signed his undertaking with CPSO no less than 6 months ago, despite the allegations involving practice from 5-8 years ago. Dr. Tandon signed an undertaking restricting him from primary care and all other care considered insurable according to the Ontario Health Insurance Plan in the recent past. This must be considered a recent decision on his part and therefore the actions taken by Council were considered in the context of the Ontario matter being recent. A desire on the part of Dr. Tandon to consider these matters in the remote past, would have required some action on his part to either contest the allegations or in some manner to convince CPSO corrective measures he has engaged in have rendered the allegations moot in which case the restrictions on his practice could have been substantially reduced.

- 4) Council did not identify any factor in the evidence presented by Dr. Tandon which would have resulted in a lesser restriction than imposed by CPSO. For this reason, Council decided similar restrictions to those in the CPSO undertaking should be imposed on Dr. Tandon's practice in Saskatchewan.
- 5) There was no substantive debate as to the cosmetic practice Dr. Tandon undertakes in Saskatchewan. This practice is not billed via the medical services branch in Saskatchewan and equivalent practice in Ontario would not have been restricted according to the terms of the undertaking. This practice will remain under the routine oversight of the CPSS according to the appropriate bylaws, policies and guidelines.
- 6) Dr. Tandon specifically requested he be allowed to deliver OATP services in Saskatchewan in addition to addictions services. The Council agrees with Dr. Tandon's assertions that OATP and addictions treatment is an underserved area of care in Saskatchewan. The Registrar was willing to allow ongoing delivery of these specific areas of care due to the increased oversight maintained by the College in these areas. This would, in effect, result in a level of supervision over Dr. Tandon which would serve to mitigate the risk of patient harm. Council debated this matter and was unable to reach the same conclusion as the Registrar. Dr. Tandon's practice currently serves a high proportion of socioeconomically disadvantaged individuals. The Council is of the opinion primary care in such a geographic

practice requires the very highest level of care, and within this challenging patient profile, the addicted patient presents yet another increase in difficulty to the practitioner. When viewed through the lens of the alleged shortcomings in practice observed in Ontario, the council could not identify how this extremely challenging patient population could be optimally managed by Dr. Tandon, when in fact the less challenging routine primary care patients have already been observed to pose significant challenges to Dr. Tandon's standard of practice. It is not the opinion of Council 'any care' is better than 'no care' for patients battling addiction. Council does not believe this is the position being supported by the Registrar as the contrary was articulated in written submissions.

If anything, the high needs population in Saskatoon is in greater need of high-quality medical care than in less needy populations.

Despite the Registrar's Office's intent to increase scrutiny and oversight, Council was not willing to extend the benefit of the doubt to Dr. Tandon in this complex component of practice. It is only with ample consideration and an abundance of caution for the patients at potential risk that the Council takes an opposing position to the Registrar's Office in this matter.

- 7) The Council recognizes the terms of its decision are subject to review upon request. Dr. Tandon maintains the right to apply to Council for reconsideration of the restrictions placed upon his practice. While there is no specific minimum of time before which such an application would not be considered, Council would need to receive considerable evidence in support of such an application. Further, Dr. Tandon would be required to demonstrate not only steps taken to avoid repetition of the alleged deficiencies, but also a viable supervisory strategy to allow for potential expansion in scope of practice.

Accepted by the Council of the College of Physicians and Surgeons of Saskatchewan: 21 March 2020