

Dr. A. Ali - Penalty Hearing (Minutes 464i-466i) (E.C. 1/04) (Infos. 292/04,
296/04, 17/05)

- 33j Dr. Amjad Ali, accompanied by legal counsel Mr. C.J. Onishenko, was present at Council to speak to penalty following the Discipline Committee finding him guilty of unbecoming, improper, unprofessional or discreditable conduct on two of the three charges placed before it. Mr. B. Salte, College legal counsel, was also present at this time.
- 34j College legal counsel reminded Council that Dr. Ali had been found guilty of only part of the charges that had been laid against him and as a result the costs that might be assessed against Dr. Ali should need to reflect this fact.
- 35j College legal counsel contended that the seriousness of Dr. Ali's conduct justifies a suspension. However, the suspension should be viewed as having been served during the period March 2004 to November 2004.
- 36j He recommended that Dr. Ali be required to sign an undertaking as a condition of being allowed to practice in Saskatchewan that he will:
- a) Enter and complete a boundaries education program approved by the Registrar.
 - b) Have a chaperone present for all examinations of adult female patients. All chaperones must be approved by the College of Physicians and Surgeons.
 - c) Practice only in an environment in which a sign is posted in the waiting room that he will have a chaperone present for all examinations of female patients.

37j College legal counsel recommended that Dr. Ali be required to pay 60% of the costs of the investigation and hearing (\$63,896.71), with the remainder of the costs being borne by the College. In other words, Dr. Ali would pay the amount of \$36,000.00. Because Dr. Ali's financial position does not permit him to pay this amount at once he recommended that Council specify the amount Dr. Ali is required to pay and rate at which these monies are to be paid.

38j The Registrar stated that in earlier communication with Mr. R. Elson he had mentioned two options for programs dealing with boundary breach:

- (1) The Boundary Breach Program at the University of Manitoba in Winnipeg.
- (2) A 2-day program sponsored by the College of Physicians and Surgeons of Ontario and follow-up visits with Dr. Stella Blackshaw of Saskatchewan.

39j Mr. C.J. Onishenko stated that Dr. Ali is willing to sign a commitment to have a chaperone present when examining female patients and posting a sign to that effect in the clinic waiting room. The proposed suspension details also do not pose a problem, although there is an obvious stigma attached to any such action.

40j Mr. Onishenko stated he did have a problem with the recommended costs to be assessed against Dr. Ali. He suggested the costs should be assessed as though there had been three hearings, which means that Dr. Ali would only be responsible for the costs of the cases in which he was found guilty. He pointed out that Dr. Ali has been out of practice for fifteen months and is essentially broke. He is currently on a temporary license to practice in Balcarres, but has been denied hospital privileges, and he can only bill \$4,000.00 every two weeks. A boundary education program will cost him about \$1,400.00. Dr. Ali requests he be given time to pay the costs and asks that this requirement be suspended until he obtains hospital privileges.

41j College legal counsel disagreed with the concept of considering costs on the basis of three separate hearings. Council must consider all expenses incurred by the College, although it's true Dr. Ali would not have been out of practice as long as he has been had he pleaded guilty to the charges laid against him. He reminded Council that it must deal with costs and penalty differently. He also reminded Council that any decision it makes is reviewed by the courts and it must therefore provide reasons for any decision it reaches.

42j Dr. Ali declined the opportunity to speak on his own behalf.

43j Moved by Dr. Tsoi
Seconded by Dr. Bachynski

Pursuant to Section 54(1)(b) of **The Medical Profession Act, 1981**, Dr. Amjad Ali is hereby suspended for a period of three months, retroactive to March 21, 2004.

Pursuant to Section 54(1)(b) of **The Medical Profession Act, 1981**, Dr. Amjad Ali shall remain suspended until he provides an undertaking to the College of Physicians and Surgeons, in a form acceptable to the Registrar that he will:

- (1) Enter into a boundaries education program, approved by the Registrar, and complete that program. His undertaking should contain consent to a release of information from that program to the College of Physicians and Surgeons. The undertaking should require him to enter into that program within a period of three months after first becoming licensed by the College.
- (2) Have a chaperone present for all examinations of adult female patients. All chaperones shall be approved by the College of Physicians and Surgeons.
- (3) Practice only in an environment in which a sign is posted in the waiting room advising that Dr. Ali will have a chaperone present for all examinations of female patients.

Pursuant to Section 54(1)(i) of The Medical Profession Act, 1981, Dr. Amjad Ali is hereby directed to pay the costs of and incidental to the investigation and hearing in the amount of \$20,000.00. Such costs shall be paid in the amount of not less than \$500.00 per month, commencing April 1, 2005 and continuing on the first of each until paid in full.

Pursuant to Section 54(2) of **The Medical Profession Act, 1981**, any permit or license granted to Dr. Amjad Ali shall forthwith be suspended if any payment required to be made by Dr. Amjad Ali is not paid as required.

The Council reserves to itself, upon application by Dr. Amjad Ali, the right to extend the time for payment of the costs or any part thereof, or to reduce or forgive the payment of the costs or any part thereof, or to amend the terms for the payment of costs.

Carried.

44j Moved by Dr. Tsoi
Seconded by Dr. Bachynski

In regard to the matter of costs and incidental to the investigation and hearing of Dr. A. Ali, the Council weighed both the view of the College counsel that 60% of the total costs be levied, based on the fact that two-thirds of the charges laid were proven, and the view of Dr. Ali's counsel that little or no costs be levied as Dr. Ali had in effect been suspended from

practice for almost fifteen months due to rejection of licensure pending disciplinary proceedings. Note was also made of the fact that Dr. Ali suffered a diminished ability to earn income due to not being granted hospital privileges pending the result of disciplinary proceedings.

As a result of these deliberations, the amount levied was fixed at \$20,000.00, to be paid in \$500.00 monthly installments effective April 1, 2005.