

IN THE MATTER OF THE MEDICAL PROFESSION ACT, 1981 AND THE COLLEGE OF PHYSICIANS AND SURGEONS OF SASKATCHEWAN AGAINST DR AMJAD ALI

REASONS FOR DECISION

After deliberation in camera, Council imposed the following penalty with a motion that was passed by majority vote:

- 1) Pursuant to section 54 (1) (b) of **The Medical Protection Act, 1981**, Dr Amjad Ali is immediately suspended from the privileges of a duly qualified medical practitioner for a period of six months, three months of which will be suspended if Dr Ali completes a course in Ethics approved by the Registrar, all costs to be borne by Dr Ali;
- 2) Pursuant to section 54 (1) (g), Dr Amjad Ali is required to take an Ethics program in a form acceptable to the Registrar;
- 3) Pursuant to section 54 (1) (b), shall complete the Ethics program before his privileges as a duly qualified practitioner may be restored;
- 4) Pursuant to section 54 (1) (f), Dr Amjad Ali is required to pay a fine of \$10,000, payable immediately;
- 5) Pursuant to section 54 (1) (i) Dr Amjad Ali is directed to pay the cost of an the incidental to the investigation and hearing to the cost of \$ 31, 035.90, payable immediately;
- 6) Pursuant to section 54 (2) Dr Amjad Ali's license is suspended in the event of his failure to pay the cost and will remain suspended until the cost are paid in full;
- 7) Council reserves the right to amend the terms of this order by extending the time for payment of the costs, by arranging for the payment of costs over time or by installments, or by reducing or forgiving the payment of the costs and, in the event of such an amendment, the Council may impose such additional conditions pertaining to payment and suspension of Dr Ali's license for the non-payment as may be permitted by **The Medical Profession Act, 1981**.

Background Facts – the Findings of Unprofessional Conduct

Following an investigation by a preliminary inquiry committee, the Council laid two charges of unprofessional conduct against him.

The charges alleged that he participated in the forgery of a document and submitting that document to MSB, which resulted in MSB paying him rather than Dr. Emokpare for services rendered by Dr. Emokpare. In addition, he was charged with having given misleading information to a preliminary inquiry committee.

He was found guilty of both charges.

The two charges read as follows:

*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. Amjad Ali, namely:*

*1. You Dr. Amjad Ali are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of Section 46(o) of **The Medical Profession Act, 1981** s.s. 1980-81 c. M- 10.1.*

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

(a) In 2008 Dr. Emokpare worked in your clinic in Regina, Saskatchewan;

- . (b) Dr. Emokpare signed a Direct Payment Request form directed to Medical Services Branch which instructed that payments for services provided by Dr. Emokpare should be paid to his account;*
- . (c) On or about the 6th day of May, 2008 the Direct Payment Request Form was altered to direct that payment should be made to Dr. Amjad Ali Medical Prof. Corp.;*
- . (d) On or about the 6th day of May, 2008 the altered Direct Payment Request Form was provided to Medical Services Branch;*
- . (e) The altered Direct Payment Request Form resulted in payment for medical services provided by Dr. Emokpare being paid to Dr. Amjad Ali Medical Prof. Corp.;*
- . (f) Dr. Emokpare did not alter the Direct Payment Request Form, nor did he authorize the alteration of the form;*
- . (g) You provided instructions to you employee, Ms. Peggy Daniel, which resulted in her altering the Direct Payment Request Form;*
- . (h) You instructed your employee, Ms. Peggy Daniel, to provide the altered Direct Payment Request Form to Medical Services Branch.*

*2. You Dr. Amjad Ali are guilty of unbecoming, improper, unprofessional, or discreditable conduct for knowingly giving false information to a preliminary inquiry committee contrary to the provisions of Section 46(o) and/or section 55.2 of **The Medical Profession Act, 1981** s.s. 1980-81 c. M-10.1.*

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

a. You were interviewed by a preliminary inquiry committee on or about December 4,

2009;

- b. During the course of that interview, in relation to the issue of a change to the Direct Payment Request form signed by Dr. Emokpare to have payment made to you or your professional corporation, you said the following: "So on the basis of that I decided, I spoke to him about it, that he would now have to sign documents so that we collect the money because we can't continue, this is not good practice. So after some talking, he decided 'yes he would do it'."*
- c. During the course of that interview, in relation to the issue of a change to the Direct Payment Request form signed by Dr. Emokpare to have payment made to you or your professional corporation, you said the following: "He was going to sign the documents and I was to collect the money."*
- d. During the course of that interview, in relation to the issue of a change to the Direct Payment Request form signed by Dr. Emokpare to have payment made to you or your professional corporation, you said the following: "So he signed the documents"*
- e. During the course of that interview, in relation to the issue of a change to the Direct Payment Request form signed by Dr. Emokpare to have payment made to you or your professional corporation, you said the following: "He did sign"*
- f. During the course of that interview, in relation to the issue of a change to the Direct Payment Request form signed by Dr. Emokpare to have payment made to you or your professional corporation, you said the following: "I had nothing to do with that. That was Peggy's job, she did all that."*
- g. During the course of that interview, in relation to the issue of a change to the Direct Payment Request form signed by Dr. Emokpare to have payment made to you or your professional corporation, you said the following: "It was in the hands of the front end. They're the ones who were dealing with this matter. I have nothing to do with this."*
- h. You knowingly giving false information to the preliminary inquiry committee in connection with one or more statements in this charge.*

II. Fact Finding on the First Charge

The facts found by the committee can be summarized by the following from page 17 of their decision:

We have accepted Ms. Moody's testimony that she altered the MSB Form and obtained the Missing MSB Payment for the Corporation at the direction of Dr. Ali. We have rejected Dr. Ali's testimony on this point primarily on the basis his actions

during and subsequent to the Confrontation did not support the conclusion Dr. Ali was unaware of the Altered MSB Form. Dr. Ali's testimony could only make sense if Dr. Emokpare did not accuse him of forgery during the Confrontation. Once we rejected Dr. Ali's evidence that Dr. Emokpare did not accuse him of forgery during the Confrontation, Dr. Ali's testimony in regard to what transpired after the Confrontation did not make much sense.

At page 19 the committee summarized its conclusions as follows:

Dr. Ali's conduct in instruction Ms. Moody to alter the Altered MSB Form and fax the Altered MSB Form to MSB, resulting in the Missing MSB Payment being paid to the Corporation clearly amounts to "intentional or negligent conduct". We also find this intentional or negligent conduct amounts to "unbecoming, improper, unprofessional and discreditable" conduct. All the Committee members, without hesitation, found Dr. Ali's actions to be extremely unbecoming, improper, unprofessional and discreditable, pursuant to s. 46(o) of the *Act*. We therefore find Dr. Ali guilty of Charge #1.

III. Fact Finding on the Second Charge

The committee found that Dr. Ali had lied to the committee when he stated that the MSB document had been signed by Dr. Ali, and when he stated that he was unaware of what Ms. Moody had done in relation to the alteration of the document.

The committee summarized its conclusion as follows on page 19:

As a result of our acceptance of the Factual Sequence, Ms. Moody's evidence and Dr. Emokpare's evidence, as well as our rejection of Dr. Ali's evidence, we must conclude Dr. Ali knowingly gave false information to the PIC. This false information is that he had nothing to do with the Altered MSB Form and that Ms. Moody was solely responsible for the Altered MSB Form/Missing MSB Payment.

IV. Previous Finding of Unprofessional Conduct

Dr. Ali was found guilty of unprofessional conduct following a hearing in 2004. The discipline hearing committee decision stated the following with respect to the first charge that the committee concluded was proved:

This Committee found A.S. to be an extremely credible witness and accepts the evidence of A.S. over Dr. Ali's and finds that Dr. Ali remained in the examination room on August 7, 2003, while A.S. undressed. This Committee accepts the evidence of A.S. over Dr. Ali's and finds Dr. Ali did not offer A.S. a gown or a sheet to allow her to be covered and finds Dr. Ali remained in the examination room while A.S. was dressing following the pelvic examination. This Committee accepts the evidence of A.S. over Dr. Ali's and finds Dr. Ali asked A.S., following the examinations, whether she had a boyfriend and whether she wanted to come and visit him in northern Saskatchewan and stay with him.

...

This Committee finds Dr. Ali guilty of Charge #1 in that he remained in the examination room while AS. disrobed and he did not offer AS. a gown or sheet to allow her to be covered. He also remained in the examination room while AS. was dressing and after the examination was concluded asked AS. if she had a boyfriend and invited A.S. to stay with him at his home in Northern Saskatchewan. Dr. Ali's actions humiliated A.S., showed a lack of respect for her privacy and were seen by A.S. as "hitting on her". Objectively, some of Dr. Ali's actions could be viewed as Dr. Ali attempting to open the door towards a relationship with A.S. In the Committee's opinion, Dr. Ali's actions constitute a breach of the standard of conduct expected of a physician and were improper, unprofessional and amounted to discreditable conduct pursuant to Section 46(0) and (p) of the Act as well as Bylaw 51 (2)(2)(q).

The discipline hearing committee decision states the following with respect to the second charge that the committee concluded was proved:

In regard to Dr. Ali making comments to C.S. that she was overweight because she was lonely, his comments to C.S. that he likes spending time with his woman making love to her and his comments as to how C.S. should be treated, the Committee has no hesitation in accepting the evidence of C.S. over that of Dr. Ali. C.S. was a credible, believable witness. C.S. had never met Dr. Ali before and she has no interest in seeing him again in any capacity. She had no reason to misrepresent anything that occurred as between herself and Dr. Ali on August 9, 2003. Shortly after the incident, she prepared a letter to the College of Physicians & Surgeons outlining what occurred.

...

This Committee finds the comments made by Dr. Ali to C.S. in regard to her being overweight because she was lonely in conjunction with his questions about whether C.S. had a boyfriend, followed by his comments about how he spends time making love to a woman and how C.S. should be treated, amounted to improper, unprofessional and discreditable conduct, pursuant to Section 46(0) and (p) of the Act as well as Bylaw 51(2)(2)(q). Dr. Ali himself testified if this Committee accepted C.S.'s testimony he would have acted improperly. The comments which this Committee accepts as having been made by Dr. Ali to C.S. were "sexualized comments" that could objectively be viewed as Dr. Ali attempting to open the door towards a relationship with C.S. and were ill advised. Therefore, this Committee finds Dr. Ali guilty of Charge #2.

The Council imposed the following penalty:

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.

V. Principles in Imposing Penalty

The factors which are frequently considered in imposing an appropriate penalty are outlined in **Camgoz v. College of Physicians and Surgeons** (1993), 114 Sask. R. 161 (Q.B.) at 173-174. Although these factors were discussed in the context of sexual abuse of a patient, similar considerations have been used in other disciplinary matters:

- . a) the nature and gravity of the proven allegations;
- . b) the age of the offending physician;
- . c) the age of the offended patient;
- . d) evidence of the frequency of the commission of the particular acts of misconduct within particularly, and without generally, the Province;
- . e) the presence or absence of mitigating circumstances, if any;

- . f) specific deterrence;
- . g) general deterrence;
- . h) previous record, if any, for the same or similar misconduct,
- . i) the length of time that has elapsed between the date of any previous misconduct and conviction thereon, and, the member's (properly considered) conduct since that time;
- . j) ensuring that the penalty imposed will, as mandated by s. 69.1 of the Act, protect the public and ensure the safe and proper practice of medicine;
- . k) the need to maintain the public's confidence in the integrity of the respondent's ability to properly supervise the professional conduct of its members;
- . l) ensuring that the penalty imposed is not disparate with penalties previously imposed in this jurisdiction in particular, and in other jurisdictions in general, for the same or similar act of misconduct.

VI. REASONS FOR PENALTY IMPOSED ON DR AMJAD ALI

1) SUSPENSION FROM PRIVILEGES OF A DULY QUALIFIED MEDICAL PRACTITIONER FOR A PERIOD OF SIX MONTHS, THREE MONTHS OF WHICH WILL BE SUSPENDED IF DR ALI COMPLETES A COURSE IN ETHICS APPROVED BY THE REGISTRAR, ALL COSTS TO BE BORNE BY DR ALI

Council decided that the suspension was necessary to deter further offences. The previous acts of unprofessional conduct have been noted, but was not a factor in determining the penalty. Council concluded that Dr Ali seems to have no remorse and denies any wrongdoing

2) REQUIRED TO TAKE A COURSE IN ETHICS ACCEPTABLE TO THE REGISTRAR

This was based on similar cases in the past where a course in ethics was set as a requirement for prevention of further acts of unprofessional conduct as well as education.

3) PAY A FINE OF \$10,000 DOLLARS, PAYABLE IMMEDIATELY

This was decided as a general rule, and was based on previous cases and previous penalties imposed on members that were found guilty of unprofessional conduct

4) DR ALI IS DIRECTED TO PAY THE COSTS OF AND INCIDENTAL TO THE INVESTIGATION AND HEARING IN THE AMOUNT OF \$ 31,035.90, PAYABLE IMMEDIATELY

The fact that Dr Ali denied the allegations necessitated the investigations and subsequent hearing. The costs were all incurred and needs to be retrieved. This could have been avoided if Dr Ali entered a guilty plea, and it is unreasonable for Members of the College to bear the cost of investigations that was potentially avoidable.

5) DR ALI'S LICENSE IS SUSPENDED IN THE EVENT OF HIS FAILURE TO PAY THE COSTS AND WILL REMAIN SUSPENDED UNTILL THE COSTS ARE PAID IN FULL

Mitigating Factors

Council could find no mitigating factors. Dr Ali failed to admit his conduct, and lied to the investigating committee. As well, Dr Ali's evidence was found to be untrue to the investigating committee

Aggravating Factors

The conduct was premeditated, and Dr. Ali asked Ms Moodley to collect money from Dr Emokpare on his behalf.

Dr. Ali blamed his conduct on Ms Moodley who at that time was his employee.

Dr Ali lied and misled the investigating committee

Dr Ali showed no remorse at his presentation to Council and sated that he is not a crook.

Dated the 22nd day of June, 2012 at Saskatoon, Saskatchewan.