



Dr. Amjad ALI

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## Council Decision

<b>Effective Date:</b>	June 21, 2013
<b>Joint Submission:</b>	September 7, 2013
<b>Disposition 1:</b>	Indefinite Suspension
<b>Appeal 1</b>	March 2014
<b>Appeal 2</b>	June 2016
<b>Appeal 3</b>	June 2018
<b>Appeal 4</b>	November 30, 2018
<b>Application for Reinstatement</b>	November 29, 2019
<b>Disposition 2:</b>	Suspension Rescinded

**UPDATE:** *On November 29, 2019 the Council agreed to reinstate Dr. Ali's licence, subject to an undertaking relating to his practice and compliance with College bylaws relating to return to practice after an absence.*

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Council penalty decision – September 7, 2013 – accepting joint submission

*Dr. Ali no longer has a licence to practise medicine as his licence was revoked by Council decision on June 21, 2013.*

*The Council orders that, pursuant to section 54(1)(b) of **The Medical Profession Act, 1981**, Dr. Amjad Ali is immediately suspended from the privileges of a duly qualified medical practitioner under this Act until Council rescinds or modifies the suspension.*

*The Council reserves to itself, upon application by Dr. Ali, the right to rescind or modify this suspension.*

**IN THE MATTER OF *THE MEDICAL PROFESSION ACT, 1981,***  
**SS 1980-81, c M-10.1, Section 86**  
**AND IN THE MATTER OF AN APPLICATION FOR RESTORATION OF LICENCE AND**  
**TERMINATION OF SUSPENSION**  
**BY DR. AMJAD ALI OF REGINA, SASKATCHEWAN**

**NOVEMBER 29, 2019**

**Mr. B. Salte, Q.C. appearing for the College of Physicians & Surgeons of Saskatchewan**

**Mr. D. Kraushaar appearing for Dr. Ali**

**BACKGROUND**

Dr. Ali has a long-standing history with the College of Physicians and Surgeons of Saskatchewan. He currently does not hold a license to practice medicine in Saskatchewan.

In June and November of 2018, Council rejected Dr. Ali's applications for restoration of his license. These decisions were based on persistent concerns regarding Dr. Ali's governability as it pertained to the possible terms of an undertaking to restrict his practice in the event of restoration.

Dr. Ali requested a further hearing to hear arguments in support of his ongoing request.

Dr. Ali's current application is not an appeal of previous decisions of Council. The current application is submitted with new documentation in support of Dr. Ali's request for restoration of licensure. It is understood by Council and Dr. Ali that the onus remains on Dr. Ali to demonstrate with supporting evidence sufficient changes have occurred which would give Council reason to believe that his application is credible, and that he would be able to practice under such restrictions deemed necessary to maintain the safety of the public.

The details of the previous long-standing history of professional misconduct is well documented and will not be reproduced in this document.

**POSITION OF DR. ALI**

Dr. Ali provided an update from his long-term counselor Mr. Dennis Arbuthnott. The most significant portion of that progress note is as follows:

*"...it seems that the biggest concerns expressed by the college regarding Dr. Ali is that he has not been governable in the past. Dr. Ali realizes he needs to establish a genuine sense of trust and governability between himself and the college and council. He also understands that it is incumbent on him to develop this trust by complying with any conditions imposed and by receiving supervision."*

Dr. Ali has provided supplemental information from his physicians outlining that he is compliant with ongoing health matters including both his diabetes and his acoustic neuroma. These documents were responsive to council's previous concerns regarding the status of Dr. Ali's health, which has been purported by Dr. Ali on several occasions to have been pivotal to his flawed decision making.

Dr. Ali has submitted his exhaustive list of continuing medical education. Dr. Ali is aware that in the event of a successful application for restoration and removal of the enduring suspension, he will still have to demonstrate to the Registrar his competence to practice in a manner adherent to Bylaw 4.1.

Dr. Ali has provided letters from various medical specialists with whom he has completed informal clinical observerships. While the specifics of the observerships were not clarified, both letters were generally supportive of Dr. Ali from the perspectives of both professionalism and medical knowledge.

Dr. Ali has provided a letter from Dr. D. Mbanza. Dr. Mbanza is a family physician in good standing with the College. Dr. Mbanza reported on a one month observership completed by Dr. Ali. The professionalism and medical expert aspects of Dr. Ali were supported by Dr. Mbanza. Further, Dr. Mbanza has offered Dr. Ali the opportunity to join his practice in the event of successful restoration of licensure. Dr. Mbanza has not yet specifically undertaken to supervise Dr. Ali in his practice, but Dr. Ali is under the clear understanding that this supervisory role would be filled by Dr. Mbanza if such an opportunity were presented.

## **THE POSITION OF THE REGISTRAR'S OFFICE**

Mr. Salte has placed before Council his interpretation of the test for restoration in as much as any new information provided by Dr. Ali meet the criteria for section 86 of *The Medical Profession Act, 1981* which states:

*86 The council may restore the license or permit, as the case may be, of any person where it considers that the interest of the public has been adequately protected, and it may require that person to pay a restoration fee, the amount of which is not to exceed the amount of the registration fee.*

The Registrar's perspective focused on three issues of greatest concern to Council.

- 1) Does the information satisfy the Council that Dr. Ali is unlikely to again engage in improper sexual conduct with patients?
- 2) Does the information satisfy the Council that Dr. Ali is unlikely to engage in other future unprofessional behaviour?
- 3) If the information satisfies the Council that the public can be adequately protected if there are sufficient safeguards, what are the necessary safeguards and has Dr. Ali established that those safeguards will be in place?

Council was reminded that the terms of section 86 do not allow restoration with conditions. For this reason, any restrictions to be placed on Dr. Ali's practice would have to be articulated in an undertaking to be signed by Dr. Ali.

## **DECISION**

After long and fulsome deliberation on the latest submission and prior decisions Council voted to restore Dr. Ali's license to practice medicine in the Province of Saskatchewan in as much as he signs an undertaking with the terms provided further in this document.

Council subsequently voted to rescind its order of September 7, 2013 indefinitely suspending Dr. Ali from the privileges of a duly qualified medical practitioner.

## **REASONS FOR DECISION**

Past decisions by Council on this matter have focused on the necessity of Council to protect the public from risk. Council has focused on several areas of deliberation associated with past and present applications.

### **1) Credibility of Dr. Ali**

Dr. Ali presented himself in a manner which did not specifically speak against his credibility. In past interactions with Dr. Ali, he has variably presented himself with anger, levity or incredulity. In his most recent appearance before the council, none of these factors were present. While there were certainly opinions expressed by Councilors casting doubt on the credibility of Dr. Ali, these opinions were not sufficient to move the Council as a whole to refuse the current application.

Dr. Ali has presented written submissions on his behalf from colleagues with whom he has spent considerable time in observership. These letters all speak to his aspects of professionalism which were consistently observed from Dr. Ali's supervised interactions with patients.

### **2) Governability of Dr. Ali**

Council has considered past applications and found that Dr. Ali demonstrated poor insight with respect to the significance of restrictions that may be placed upon him, should his application be treated favorably. During this application hearing, Dr. Ali was questioned thoroughly by several councilors to test this component of his insight. Dr. Ali responded in a more definitive manner than previously observed. Dr. Ali demonstrated an improved insight into the fact that restrictions on his practice are to be considered paramount to any other consideration or practice stressors that may arise.

Dr. Ali was adamant that he would not vary from any restrictions placed upon him in any way. He had, in prior applications, implied that practice conditions may make it necessary to modify the number of patients to be seen daily in order to meet the needs of the practice. Council has confirmed with Dr. Ali that he will not vary from strict restriction of no more than 13 patients in any 4 hour shift to a total of no more than 25 patients in any 8 hour shift, to a total of no more than 100 patients in any given 5 day work period. This reduced patient load is more restrictive than any previously suggested by Council. Dr. Ali demonstrated an understanding of both the limits in question, and the Council's specific motivations for those strict limits.

Past applications have lacked clarity with respect to future practice patterns, or practice options. Previously proposed practice opportunities were considered to be of suboptimal nature either in terms of balancing work and health, or in the quality of supervision available. Dr. Ali's current application is supported by a more defined practice which will

comply with any and all restrictions placed upon him. Further support is garnered from the implied role of Dr. Mbanza as a supervisor. While this supervisory role has yet to be clearly articulated to, or undertaken by, Dr. Mbanza there were no factors regarding Dr. Mbanza which gave pause to Council regarding his potential suitability to fulfill this role should he undertake to do so.

Dr. Ali has presented evidence of the ongoing clinical oversight of his personal physician, his clinical psychologist, and his Gamma Knife surgeon. As previously mentioned, much focus has been paid to Dr. Ali's health concerns as a possible contributing factor to poor decision making with respect to actions involved in his previous misconduct. Council has been relatively unmoved by these arguments in the past, however Council has recognized that these health-related factors have been considered by Dr. Ali to be central to his misconduct. In as much as these factors are currently under close observation and control, Council was able to remove these factors as potential risk factors for further misconduct.

After careful consideration Council was sufficiently convinced that Dr. Ali has taken steps to improve his insight, improve his health, and plan for an appropriate re-integration into practice that prior concerns regarding governability were assuaged. Under such circumstances, the only means of assessing Dr. Ali's governability will be a carefully monitored re-integration to practice under strict restrictions.

3) Practice restrictions which may serve to mitigate risk to the public.

Council accepted the undertaking brought forward by Dr. Ali's counsel in 2018 as a template for a final undertaking. This undertaking was reviewed by Dr. Ali's counsel and his psychologist for content prior to submission. The Council did feel that further restrictions and protections were required to increase the likelihood of a successful re-integration to practice. The terms of the final undertaking were approved by both Mr. Kraushaar and Mr. Salte. The terms of the final undertaking, with comments as required, are as follows:

- 1) I will continue to receive medical treatment, including taking my medication and providing confirmation to the College that I am doing so. This includes, if directed by the College, attending for testing to confirm compliance;

As previously articulated, Dr. Ali's health concerns have been an ongoing focus of his prior defense. It is essential that the College can continue to ensure that Dr. Ali is compliant with all relevant medical treatments so as to minimize risk of relapse.

- 2) I will continue to receive such counselling as may be directed by Mr. Dennis Arbuthnott or the College;

Dr. Ali has made strides with his counselling in gaining insight into his misconduct. It is imperative that this counselling continues in order to avoid relapse.

- 3) I will only see adult male patients;

A very significant component of Dr. Ali's misconduct has involved interaction with female patients and sexual boundary breaches. As a result he will be restricted to seeing only male patients. In order to avoid the possible interaction of Dr. Ali with the female parent of a male minor patient, he is restricted to adult male patients only.

- 4) I will ensure that there will be an appropriate sign placed in any office or area where I work, and in any examination room where I see patients, advising that I will only attend upon adult male patients;
- 5) I will restrict my practice to seeing a maximum of 13 patients per 4 hour working period, to a maximum of 25 patients per 8 hour day to a total of a maximum of 100 patients per week, unless otherwise directed by the College. Specifically, I will not increase the number of patients I see unless approved by the College;

Achieving a healthy work life balance was considered essential for Dr. Ali to have any meaningful chance of safe practise. Council deliberated on practise numbers and determined that the terms of condition 5 will permit a full practise to Dr. Ali, and the clinic he will work in, while ensuring he does not return to previous unhealthy workloads, which have been purported to have been a major factor in his poor decision making and subsequent misconduct.

- 6) I will not prescribe any opioids or opioid containing medications;
- 7) I will ensure that all staff working in the clinic where I work will sign a form acknowledging that they are aware of these conditions and will undertake to comply with the same and will report to the College any breach of the conditions by myself;
- 8) I agree to random inspections of my practice;
- 9) I agree to the monitoring of my practice by the College;
- 10) I will, until such time as the College directs otherwise, have a workplace monitor or manager, who must be a physician, and who must be approved by the Registrar, who will regularly report to the College about my compliance with the conditions;

Past applications were refused in part due to a poorly established re-integration plan with proposed supervisors who themselves, recently been found guilty of professional misconduct. In the current application, Dr. Mbanza has been put forward as a potential supervisor. Dr. Mbanza will have to undertake to fulfill this role, but is otherwise considered a suitable candidate if deemed appropriate by the Registrar.

- 11) I will meet with the workplace monitor or manager at least once every two weeks to discuss my practice and any issues of concern;
- 12) I will ensure that the workplace monitor or manager approved by the College has confirmed in writing to the College that the workplace monitor or manager will

report to the College my compliance with the undertaking at such frequency that the Registrar may direct;

- 13) If the workplace monitor or manager is unable or unwilling to continue as supervisor I will cease practicing until a replacement acceptable to the College is in place.

Very careful articulation of this condition was made to Dr. Ali. There was no misunderstanding that Dr. Ali would immediately cease practise if his registrar appointed supervisor ceases to fulfill that role.

- 14) This undertaking shall remain in effect for as long as I remain in practice in the province of Saskatchewan. The terms of this undertaking can only be amended with the consent of the Council.

- 15) I will provide a resignation to be held by the Registrar and only acted upon if Dr. Ali breaches any of the terms of this undertaking, in the objective opinion of the Registrar. I agree that if I breach any terms of this undertaking it may constitute unbecoming, improper, unprofessional or discreditable conduct and that I agree to termination of my licence and I agree not to reapply for a licence.

This condition is explained below.

- 4) Considerations which will serve to protect the profession from further administrative cost should Dr. Ali be unable to practice within the restrictions he will undertake to adhere to.

The Council, the College and thereby the membership at large has utilized a great deal of resources in time, and cost toward the investigations and hearings related to all of Dr. Ali's long history of professional misconduct. The Council has determined that sufficient evidence exists to support that Dr. Ali may return to practice in as much as he meets the requirements of Bylaw 4.1 and is compliant with the restrictions on his practice to which he undertakes to obey. In these circumstances it is the desire of Council for any practitioner re-integrating to practice after suspension will be successful in those efforts and thereby demonstrate value to the people of Saskatchewan whom we serve.

Council considers its role in the protection of the public as paramount to all other considerations. For this reason, Council wishes to ensure that in the unlikely event that Dr. Ali demonstrates an error in judgement which leads to any improper or unprofessional conduct, there will be no further chances for Dr. Ali to ever practice medicine in Saskatchewan again. The most functional means by which to ensure this process is the 'last chance' clause represented by condition 15 of the undertaking. Council considers this clause to be essential as both a specific deterrent to further misconduct on the part of Dr. Ali, but also to serve as a guarantee of sorts to the membership of the College, that no more of its resources will be applied to Dr. Ali, should further discipline be required. We do not look on this condition and a harbinger of failure with respect to Dr. Ali's re-integration into practice, but rather as a prudent means of insuring swift and final action, should such action be required.

**Accepted by Council of the College of Physicians and Surgeons of Saskatchewan:  
Saturday 25 January, 2020**

**IN THE MATTER OF *THE MEDICAL PROFESSION ACT, 1981*, SECTION 86  
AND IN THE MATTER OF AN APPLICATION FOR RESTORATION OF LICENCE  
AND TERMINATION OF SUSPENSION FOR DR. AMJAD ALI OF REGINA,  
SASKATCHEWAN**

Mr. Darren Kraushaar appearing for Dr. Amjad Ali  
Mr. Bryan Salte, Q.C. for the College of Physicians and Surgeons of Saskatchewan

**REASONS FOR DECISION**  
**OVERVIEW**

[1] The Council met on March 22<sup>nd</sup>, 2014 to hear the application of Dr. Amjad Ali to have his licence revocation set aside, his indefinite suspension set aside and that he be given leave to repay the total costs owing in monthly payments.

[2] Between counsel for Dr. Ali and the Council there is no disagreement as to the statutory requirements that the Council must apply in such applications. They both refer to Section 86 of *The Medical Profession Act, 1981* (the “Act”) which states “*The Council may restore the licence or permit, as the case may be of any person where it considers that the interest of the public has been adequately protected, and it may require that person to pay a restoration fee, the amount of which is not to exceed the amount of the registration fee.*”.

[3] Counsel further points out that Section 69.1 of the Act also provides “*In any proceeding before the competency committee or the discipline hearing committee, in any consideration by the Council of a report from either of these committees and in any appeal pursuant to this Act, the protection of the public and the safe and proper practice of medicine shall take priority over the rehabilitation, treatment and welfare of members.*”.

[4] Counsel for Dr. Ali in the application (Council document Info 7\_14, page 14, subparagraph 5) states: “*There is substantial evidence that it is extremely unlikely that Dr. Ali will commit this type of conduct again if the revocation is set aside. While it is noted in the case this can never be guaranteed here, where there are both active steps taken to address the*

*problem and controls put in place, the Council can reasonably conclude that the public will be protected.”* The Registrar in reflecting on the evidence referred to could not come to the same conclusion as counsel for Dr. Ali and after consideration Council could also not either come to the same conclusion as counsel for Dr. Ali and denied the application.

### **FACTUAL BACKGROUND**

[5] The first matter for Council to consider was the conduct that led to the revocation and suspension. The Registrar of the College of Physicians and Surgeons of Saskatchewan in a presentation (Council document Info 24\_14) sets out Dr. Ali’s unprofessional conduct from 2005 to 2013 in pages 5 to 19. These are summarized briefly on page 5, paragraph 2 as follows:-

#### ***“2. Dr. Ali’s history of unprofessional conduct***

*Dr. Ali has been found guilty of unprofessional conduct on five occasions in Saskatchewan:*

- a) In 2013 he pled guilty to 5 charges of unprofessional conduct relating to providing Marihuana authorizations to 2 patients while suspended;*
- b) In 2013 his licence was revoked following a finding of unprofessional sexual conduct with three patients and breaching an undertaking to the College;*
- c) In 2012 his licence was suspended following a finding of unprofessional conduct for altering a patient record. The patient was the subject of a complaint to the College against Dr. Ali.*
- d) In 2011 his licence was suspended following a finding of unprofessional conduct for participating in the forgery of a document and providing untruthful information to the preliminary inquiry committee investigating the matter;*
- e) In 2005 his licence was suspended and he was required to take a boundaries education course following a finding of sexually improper conduct with two patients.”*

[6] Council concludes that in the light of this serious conduct that it must determine what degree of evidence is required to ensure that the public is protected and the safe and proper practise of medicine will occur. The conduct is varied and as it continued through more than one incident the presumption of it continuing requires a greater degree of certainty to overcome. As pointed out by the Registrar (Council document Info 107\_14, Page 4):

*“It is particularly egregious that Dr. Ali engaged in sexually improper behaviour with three patients when he had a previous history of similar behaviour, and that while awaiting his penalty decision on those charges, and while suspended, he engaged in further unprofessional conduct.”*

[7] Two reports were referred to addressing what a College should require when a physician seeks to return to practice after suspension or revocation for sexually improper conduct. The reports referred to were from the Ontario Task Force on Sexual Abuse and the Alberta College of Physicians and Surgeons.

[8] The Alberta report states: (Council document Info 24\_14, Page 150):

*“Council will consider an application for reinstatement, under the Medical Profession Act, where the applicant has previously had his/her licence revoked or suspended for sexual exploitation with a patient where it is satisfied on the evidence before it that:*

- i) *there is evidence that the probability of the physician abusing patients is virtually nil;*

*This evidence must be provided by the physician’s treating physician and through independent assessment (emphasis added) and must be based on the most current standards for assessment and treatment of sexual offenders.”*

[9] The report of the Ontario Task Force on Sexual Abuse as excerpted (Council document Info 24\_14, Page 151 to 152) states that an application for reinstatement:

*“must require the applicant to fulfill specific requirements including:*

- *Filing a certificate from an independent assessor (emphasis added) who has evaluated the course of treatment and formed an opinion as to its success in ensuring that the applicant poses no danger to future patients.*

- *The evidence presented, including expert evidence, satisfies to a substantial degree of medical and psychological certainty that the applicant will not abuse patients or other vulnerable patients in future.”*

Council considered the *Sowemimo V. College of Physicians and Surgeons of Manitoba* 2014 MBQB4 decision of the Manitoba Court of Queen’s Bench 2014 referred to by Dr. Ali’s counsel. In paragraph 24 it states that *“in cases which involve multiple factors, such as dishonesty and competency issues, the applicant must introduce evidence which is sufficient to satisfy the Executive Committee that the risk of repetition of any of the multiple behaviours which caused the initial cancellation of the licence is low.”* The multiple factors in this present case are set out above in paragraph 5 above. Council concludes from this that the degree of satisfaction that must be established from these authorities is that the risk is virtually ‘nil’, ‘low’ or within ‘a substantial degree of medical and psychological certainty’. Furthermore two of these reports; both Ontario and Alberta strongly suggest that the evidence relied upon must include that of an independent assessor.

Counsel for Dr, Ali refers to the reference by Chief Justice Joyal in *Sowemimo* to the *CPSO v. Kulkarmi* at paragraph 145 which states: *“Our system allows for rehabilitation with the opportunity for reinstatement in appropriate cases once rehabilitation and sufficient public protection have been reasonably established”* in support of his suggestion that Dr. Ali’s proposed reintegration into practice is “safe and reasonable” as “we have proposed a comprehensive and restrictive reintegration plan for Dr. Ali which gives him the best chance of maintaining his well being while ensuring the public safety and accountability of the profession.” (Council document Info 106\_14, Page 3, item 6).

However, the Court also indicated (Council document 106\_14, Page 28, paragraph 50):

*“Moreover, in respect of Sowemimo's broader argument about the reinstatement provision itself, it is important to recognize on a more holistic reading of the Act and its objectives, that it is not the purpose of the reinstatement provision to provide viable remediation and rehabilitation.*

*Rather, it is upon proof of remediation and rehabilitation that the reinstatement becomes a viable possibility.”.*

The Court then continues referring to the Kulkarmi decision () at paragraph 145: “... *Our system allows for rehabilitation with the opportunity for reinstatement in appropriate cases once rehabilitation and sufficient public protection have been reasonably established ....*”.

Dr. Ali’s presentation does not establish this rehabilitation as it requires continuing treatment and the degree to which there has been rehabilitation is not sufficient to satisfy Council that is reasonable to accept the public will be protected..

Council comes to that conclusion after consideration of the medical evidence presented. Medical evidence from previous Hearings before Council had been resubmitted as part of this application. In regard to that Council had considered it and in its decision resulting in a finding of ungovernability in June, 2013 had stated in its decision (Council document Confid. 63\_13, Paragraph 56 – 58):

*“[56] The central pillar of Mr. Fox’s argument focused on Dr. Ali’s physical and mental health issues. He presented a number of medical reports from various physicians and specialists whom Dr. Ali had consulted recently. Mr. Fox submitted that these reports suggested underlying medical causes for some of Dr. Ali’s unprofessional conduct. He urged Council to take these reports into account and permit Dr. Ali to continue to practice medicine subject to some very severe conditions. These conditions are set out in at paragraph 66 of Dr. Ali’s Brief of Law.*

*[57] Council did review these reports. Most Councilors are highly trained and experienced medical practitioners and were able to scrutinize these reports far more critically than a lay-person. At the risk of over-simplifying Council’s assessment of these reports, it was the consensus of professional opinion that these reports failed to demonstrate a causal relationship between the “subclinical mood disorder” referenced in some of the reports and Dr. Ali’s recent actions which resulted in findings of unprofessional conduct. For example, Dr. Mela in his report dated February 25, 2013, states that Dr. Ali’s answers to the mood disorder question*

were “negative” and indicates Dr. Ali did not manifest any “biological symptoms of depression and mood”.

*[58] Council recognizes that these proceedings are stressful for Dr. Ali and a source of anxiety, if not depression, for him; however, the medical evidence presented did not satisfy Council that the underlying reason for Dr. Ali’s actions which gave rise to findings of unprofessional conduct was attributable to any physical or medical condition he may suffer”.*

However, a new report was filed by counsel for Dr. Ali in a letter dated March 20<sup>th</sup>, 2014. The report was from Dr. Senthil Damodharan, a Consultant Psychiatrist and Clinical Associate Professor at the University of Saskatchewan. In this letter he advises he has reviewed assessment reports received prepared by Dr. Mela, Dr. Bowen and Dennis Arbuthnott which show “he is currently on Lamictal 100 mg B.I.D.” and goes on to state:

*“To summarise my involvement in his case, Dr. Ali has been the sole informant except for one instance when his former girlfriend joined the meeting. Based on the information I have gathered and listened over the last couple of years, the following is my opinion; Dr. Ali’s personality style would be consistent with a Narcissistic Personality Disorder. The issue of mood disorder is debatable. He does not display classic signs of bipolar disorder I, but whether he has a subclinical or a mild variation of Bipolar Spectrum Disorder is a question, which is hard to confirm but there are times when he reports excessive energy and excessive drive. The role of Lamictal is again a nonspecific variable although it has been shown to be helpful in Bipolar Spectrum Disorder, it can also help with emotional dysregulation seen in a variety of personality related difficulties.*

*In any case, in my contact with Dr. Ali, I am impressed with his willingness to seek help and to get better and want to get back to his profession. Despite the enormous stress he is going through, except for a brief period of depression, I never seen him in a depressive state or suicidal crisis. He always showed determination to overcome the crisis and move ahead in life. He has shown over a period of time some self-reflective skills and is able to appreciate that difficulties could lie within himself. He is able to appreciate that he is having difficulty with*

*many patients, colleagues, and his own family over the years, which indicates insight that at least part of the problem could lie in his personality style. Nevertheless, this progress needs further work for it to become more ingrained in his personality. He has shown a commitment to attend sessions with me and Dr. Arbuthnott.*

From this Council noted in particular that “The issue of mood disorder is debatable. He does not display classic signs of bi-polar disorder.” and “the role of Lamictal is again a non-specific variable although it has been shown to be helpful.”.

Council was not satisfied that Dr. Ali’s conduct was predominantly a medical matter. Rather Dr. Damodharan points out in paragraph 3 that “He has shown over a period of time some self-reflective skills and is able to appreciate that difficulties could lie within himself.”. More importantly he adds “this progress needs further work for it to become ingrained in his personality.”. To Council this assessment is not sufficient to establish that the public interest would be protected in the event of Dr. Ali being restored to practice under conditions. These ‘debatable’, ‘hard to confirm’ statements could indicate that it is character traits that “need further work”. They do not indicate a basis upon which a reasonable person could conclude that Dr. Ali who has exhibited a series of unprofessional and illegal actions and has ignored restrictions placed upon him can be at this time restored to practice.

The update from Mr. Arbuthnott, Registered Psychologist of February 26<sup>th</sup>, 2014 (Council document Info 106\_14, Page 11) states that he has examined his previous reports having met Dr. Ali 4 times since his report of November 2013 and “*my recommendations are unchanged*”, and “*this client has made significant progress and that if he continues all treatment outlined and adheres to the conditions outlined by his legal representative he can return to work without risk to either his patients or himself. We continue to work on issues of self regulation, boundaries, mindfulness, physical care, resolving extended family issues and others outlined in my previous report.*”. This is a conditional assessment. It presumes continued treatment and adherence to conditions. It does not give any satisfaction that the statements in his previous report are negated. They pointed out “*that most clients who do not pay attention to self regulatory process act on their self care needs when their mood cycle on diabetes management fails are subject to a likely*

*failure of self regulatory process” and that “the fact that Dr. Ali could, as a physician be aware of some of these issues and still not take care of himself points to a personality issue.”. Council concludes that the diagnoses and symptoms were contributing factors, not the only factor. There is in this report not enough clarity as to rehabilitation while the need for continuing treatment is presumed. The degree of assurance that there is no reasonable risk to a reversal is not there.*

The report of Dr. Bowen of the Department of Psychiatry at the University of Saskatchewan dated February 14, 2014 (Council document Info 106\_14, Page 8 – 10) does not provide any more assurance. He does recognise noticeable improvement in Dr. Ali. Paragraph 2 states *“There was less tendency to deflect responsibility for his actions, although he might still tend to attribute excess weight to circumstances rather than his own actions.”*. In paragraph 4 he states *“he does have some understanding of the difficulties in his interactions with his patients.”*. Paragraph 1 on page 9 deals with cognitive difficulties which remain a concern.

*“I do have a concern about his cognitive functions, but did not do formal cognitive testing. He does have some word-finding difficulty, difficulty with calculations, and difficulty with memory (particularly for names, such as not remembering the name of his current therapist, some medication names, and the names of some prominent physicians In Regina with whom he interacts). He is aware of what he calls, "short-term memory problems". A likely cause for this is cognitive and executive changes in people with long-term untreated mood disorders. This could be complicated by inadequate management of his diabetes in the past, and he mentioned at least one episode of coma. His logic and memory for established medical practice would probably not be affected. The difficulties might be more apparent under pressure" particularly time pressures and other stressful circumstances such as interpersonal conflict.”*

Paragraph 4 on page 9 deals with *“unorthodox ideas that might need to be addressed in therapy.”*.

Paragraph 5 deals with suggested regulatory controls as a result of *“the cognitive difficulties”*:

*“Because of the cognitive difficulties (if confirmed), Dr. Ali might benefit from returning to work on a part-time basis, since this is a common and helpful recommendation for other types of workers. This is commonly called a return to work plan. There might also be merit in limiting the number of patients seen per day. Dr. Ali should have a personal family physician, who is assertive with his comprehensive treatment. He should also have a physician who is willing to act as a mentor for his day-to-day work and Dr. Ali should consult the mentor regularly and vice versa. Dr. Ali did say that he sleeps well currently, but he is doing physical work, and his psychiatrist might need to attend to adequate sleep if this changes (Quetiapine in very small doses is a common suggestion). He should not undertake late night work or any schedule that might interfere with his sleep. Addressing the CANMEDS framework with Dr. Ali in therapy might be helpful. The suggested regulatory controls in your letter of Feb 10th, 2014 covers most of these suggestions.”*

Council noted Dr. Bowen’s recommendations regarding cognitive difficulties “*if confirmed*” are not completely covered by counsel’s suggested controls in his letter of Feb 10<sup>th</sup>, 2014. Dr. Bowen suggested that “*Dr. Ai should have a personal family physician, who is assertive with his comprehensive treatment*” and this is not stated as a condition. More importantly to Council is that Dr. Bowen states (page 10) “*The above suggestions are made in the context that the decision about whether Dr. Ali returns to work is the prerogative of the College*” and he then states “*I should add that I am not a forensic psychiatrist.*”

Council takes this statement as supportive of its contention that an assessment by an independent forensic psychiatrist to determine the nature of future treatment, if any, is required so that the risk of the likelihood to reoffend can be determined.

This is further substantiated by the Ontario and Alberta requirements for independent assessment. Counsel for the College points out that Drs. Bowen, Damodharan and Mr. Arbuthnott are all involved in Dr. Ali’s treatment and by definition cannot be independent assessors. Counsel for Dr. Ali, Mr. Kraushaar in his oral statement suggested that these persons were well recommended professionals who would not advocate for their patient at the expense of the public. However, the purpose of independent review is to assess the effects of treatment by

one who is not the author of it in order to have another point of reference that is not committed to a particular course of action.

Council agrees with this along with the Registrar who in her written presentation (Council document Info 24\_14, page 29) stated:

*“The importance of a report from a professional with forensic expertise who is independent and not the treating professional is also demonstrated by the comments of the Ontario College of Physicians and Surgeons in the application by Dr. Gillen to have his licence restored. At page 60 of their decision, after considering the information provided by the treating physician, the committee commented about the difficulties presented by the treating physician’s lack of independence:*

***The difficulties encountered with their viewpoints underscore the need for doctors who have been found guilty of sexual misconduct to be assessed by an independent forensic clinician. An unbiased assessment of the available information led to a more complete understanding of the dynamics in this case, given the doctor’s unwillingness to be open with his treating psychiatrist.***

The Registrar further referred to the matter of Dr. Kernerman, P. RE: The College of Physicians and Surgeons of Ontario (Council document Info 24\_14, page 59) where a reinstatement application was made. In this case evidence was presented by two forensic psychiatrists. The physician had his certificate revoked due to repeated sexual misconduct. The case demonstrates that the recommendations of independent forensic psychiatrists are important and useful in assessing risk of reoffending and determining possible conditions of practice in any reinstatement. The committee in that case came to a decision that the evidence was not sufficient to convince it that Dr. Kernerman no longer posed a risk to the public (Council document Info 24\_14, page 82) and further *“The committee is well aware of the significant efforts that Dr. Kernerman has taken to improve his mental health. He is aware that he still has work to do, and his therapist describes him as a ‘work in progress’”*.

## CONCLUSION

The Council in this case concludes that the evidence presented in this matter does not satisfy it that the return of Dr. Ali to practice could occur with the public interest reasonably protected. It does not have the degree of assurance that might be obtained from an assessment by an independent forensic psychiatrist, who could indicate the risk of reoffending in any type of previously demonstrated conduct by Dr. Ali is virtually nil or low. That requirement was strongly suggested in the Alberta and Ontario Colleges' reports previously referred to. Without such an assessment Council cannot reasonably assess the effectiveness of any proposed regulatory controls on Dr. Ali that would provide assurance of low risk. Council further considers that due to the continuing nature of his treatment it would be premature to consider what controls were required. It further considers that to be unnecessary at this time as the primary onus of proof has not been met that restoration would be in the public interest.

For the same reasons Council declines to lift the indefinite suspension.

As no definite proposal pertaining to costs was made on behalf of the applicant Council has nothing on which it could make a relevant decision and declines to make a decision.

For these reasons Council denies the application.

**IN THE MATTER OF *THE MEDICAL PROFESSION ACT, 1981, SS 1980-81, c M-10.1, Section 86***  
**AND IN THE MATTER OF AN APPLICATION FOR RESTORATION OF LICENCE AND TERMINATION**  
**OF SUSPENSION BY DR. AMJAD ALI OF REGINA, SASKATCHEWAN**

Mr. Aaron Fox, Q.C. appearing for Dr. Amjad Ali

Mr. Bryan Salte, Q.C. for the College of Physicians and Surgeons of Saskatchewan

**I. Introduction**

Dr. Amjad Ali is a 66 year old male physician who has been found guilty of unprofessional conduct on five occasions in Saskatchewan. His license to practice medicine was revoked in 2013 following a finding of unprofessional sexual conduct with three patients and breaching an undertaking with the College of Physicians and Surgeons of Saskatchewan (CPSS). Dr. Ali's application for restoration of license was denied in 2014. Dr. Ali has applied to the CPSS for restoration of his license. The Council met on June 25, 2016 to hear his application. The issue is whether Dr. Ali, in this application, demonstrates that with the restoration of his license, the interests of the public have been adequately protected and that the confidence of the public in the profession's ability to govern itself is maintained.

**II. Decision**

The Council, for reasons set out in this document, finds Dr. Ali has failed on a balance of probabilities to satisfy the onus placed upon him under Section 86 of *The Medical Profession Act, 1981* that "the interest of the public has been adequately protected". Based on the evidence presented, Council was unable to establish there is minimal risk to public safety should Dr. Ali be restored to the register of the College. Therefore Dr. Ali's application is denied.

**III. Relevant Legislation**

**Restoration of licence**

The council may restore the licence or permit, as the case may be, of any person where it considers that the interest of the public has been adequately protected, and it may require that person to pay a restoration fee, the amount of which is not to exceed the amount of the registration fee.

**Protection of public**

69.1 In any proceeding before the competency committee or the discipline hearing committee, in any consideration by the council of a report from either of these committees and in any appeal pursuant to this Act, the protection of the public and safe and proper practice shall take priority over the rehabilitation, treatment and welfare of a person registered under this Act.

**IV. Agreed Facts****1. Onus of Proof**

There is no disagreement among counsel or this Council that the onus of proof lay on the Applicant to establish on a balance of probabilities “that the interest of the public has been adequately protected”.

The non-exemptible standards for a certificate of registration under the Saskatchewan College bylaws, Section 2.3(a), are accepted as necessary for a restoration application and are “that the applicant’s past and present conduct afford reasonable grounds for the belief that the applicant is:

- i. mentally competent to practice medicine
- ii. will practice with decency, integrity, honesty and in accordance with the law
- iii. has sufficient knowledge, skill and judgment to engage in the kind of medical practice authorized in the certificate; and
- iv. can communicate effectively and will display an appropriately professional attitude”

The burden then is on the applicant to establish in a clear, cogent and convincing manner that his experience, character and attitudes are such that the public interest is protected if he is restored to the College’s register. It is possible to meet the burden upon an applicant for restoration under Section 86 of the *Act* even in the face of the substantial past history of discipline matters involving the applicant. The record is important in setting out those issues previously determined to require rectification.

2. History of Professional Misconduct in Saskatchewan:

Dr. Ali has been found guilty of unprofessional conduct on five occasions in Saskatchewan:

- a) In 2013 he pled guilty to five charges of unprofessional conduct relating to providing Marihuana authorizations to two patients while suspended;
- b) In 2013 his licence was revoked following a finding of unprofessional sexual conduct with three patients and breaching an undertaking to the College;
- c) In 2012 his licence was suspended following a finding of unprofessional conduct for altering the record of a patient who complained to the College about him.
- d) In 2011 his licence was suspended following a finding of unprofessional conduct for participating in the forgery of a document and providing untruthful information to the Preliminary Inquiry Committee investigating the matter;
- e) In 2005 his licence was suspended and he was required to take a boundaries education course following a finding of sexually improper conduct with two patients.

**V. Evidence Considered**

Testimony of Mr. Dennis Arbuthnott, MA

Testimony of Dr. Amjad Ali, MD

Report from Dr. Peter Collins, CD, MD, MCA, FRCP(C), Forensic Psychiatry (Info 143\_16)

Request by Dr. Ali for Reinstatement of his license and termination of suspension (Info 105\_16)

Dr. Ali Application for Reinstatement of his license (Info 106\_16)

Dr. A. Ali Application for Reinstatement (Info 129\_16)

Position of the Registrar's Office-Dr. Ali (Info 144\_16)

Dr. A Ali Financial Information Disclosure (Info 151\_16)

Dr. Ali-Reports from Mr. D. Arbuthnott (Info 157\_16)

## VI. Analysis of Issues

### 1. Governability:

#### A. **Has Dr. Ali sufficiently demonstrated that he is unlikely, given the proposed conditions placed upon his practice, to engage in improper sexual conduct with patients?**

Council concluded that while Dr. Ali has made significant effort to improve his mental and physical health subsequent to his previous denial of reinstatement, Dr. Ali was not able to provide assurance to the Council that the risk of reoffending in this manner is virtually nil or low.

For reference, Council considered two reports in assessing what a College should require when a physician seeks to return to practice after suspension or revocation for sexually improper conduct. The reports referred to were from the Alberta College of Physicians and Surgeons and the Ontario Task Force on Sexual Abuse. The Alberta report states: (Council document Info 24\_14, Page 150):

Council will consider an application for reinstatement, under the Medical Profession Act, 1988 where the applicant has previously had his/her licence revoked or suspended for sexual exploitation with a patient where it is satisfied on the evidence before it that:

- i) there is evidence that the probability of the physician abusing patients is virtually nil;

This evidence must be provided by the physician's treating physician and through independent assessment (emphasis added) and must be based on the most current standards for assessment and treatment of sexual offenders."

The report of the Ontario Task Force on Sexual Abuse as excerpted (Council document Info 24\_14, Page 151 to 152) states that an application for reinstatement:

must require the applicant to fulfill specific requirements including:

- Filing a certificate from an independent assessor (emphasis added) who has evaluated the course of treatment and formed an opinion as to its success in ensuring that the applicant poses no danger to future patients.
- The evidence presented, including expert evidence, satisfies to a substantial degree of medical and psychological certainty that the applicant will not abuse patients or other vulnerable patients in future.

Given the importance of the independent assessment, Council relied heavily on the report from Dr. Collins, an independent forensic psychiatrist. In his report (CPSS Info 143\_16), Dr. Collin's indicated his concerns with Dr. Ali's lack of full acceptance of blame for his previous behaviour.

In my professional opinion Dr. Ali appears to have made some progress but his general externalization of blame stills concerns me especially since he has been under the care of an excellent psychologist. (Page 4).

Council also recognized that Dr. Collins does not advocate for Dr. Ali's return to practice and instead indicates that "if" Council allows Dr. Ali to practice medicine it should be only with the numerous conditions listed in his report.

Council also considered the testimony and written reports of Mr. Denis Arbuthnott, Dr. Ali's psychologist. Mr. Arbuthnott testified that he has continued (since 2014) to provide assistance to Dr. Ali in managing his emotions and addressing issues identified by Dr. Collins. Council, however, rejected Mr. Arbuthnott's assessment of Dr. Ali's ability to return to work and specifically the risk to the public being minor if conditions are imposed, for two reasons. First, Mr. Arbuthnott is not a forensic psychiatrist. His ability to assess risk was not substantiated by Dr. Ali's counsel. Second, as Mr. Arbuthnott is involved in Dr. Ali's treatment, by definition he cannot be an independent assessor. This conflict is demonstrated by the Ontario College of Physicians and Surgeons in the Dr. Kernerman reinstatement case. In that case, where the comments of Dr. X were referred to, the committee notes Dr. X's bias by reason of his status as a treating physician (CPSS Info 144\_16). This case illustrates the difficulty for a treating professional to assist and support a patient and at the same time provide an objective assessment of the extent to which what is in the patient's interest may not be in the public interest. The purpose of independent review is to assess the effects of treatment by one who is not the author of it and is not committed to a particular course of action.

In his opening remarks, Mr. Fox indicated that Dr. Ali continues to receive counselling from Mr. Arbuthnott and is willing to accept very stringent conditions for his return to medical practice and has focused on lifestyle modifications which he acknowledged were likely only a contributing cause to his past misconduct. He feels remorseful and understands he needs to control stress

and his emotions. However, neither Dr. Ali, in his testimony, nor Mr. Arbuthnott provided real life examples of situations in the last 2 years that Dr. Ali has found stressful and therefore could demonstrate a significant change in his response. The closest example of stress was provided by Mr. Arbuthnott who indicated that he would attempt to “push” Dr. Ali in counselling sessions. Even Mr. Arbuthnott’s testimony indicated that Dr. Ali would need to avoid stressful work conditions and would need to continue therapy to work on developmental deficits.

Council has previously concluded that the criteria for license restoration from the Ontario task force on Sexual Abuse are appropriate criteria to determine whether a physician’s license should be restored (Council decision 2006/2011 Huerto). Council specifically referenced the following criteria:

- The physician must have acknowledged the harm of his actions.
- The physician must have come to an understanding of why the abuse occurred and be able to demonstrate that the conditions leading to the abuse will not occur again.
- The physician must have participated in an approved rehabilitation program with specific treatment goal, and have complied with and met all goals.
- The physician must demonstrate that his behavior relevant to the abuse has changed and will remain changed.
- The physician must demonstrate ongoing rehabilitation therapy and monitoring by the College.

Dr. Ali, in his testimony, did admit that the harm he did to patients would have long lasting effects on them and he was sorry. However, Dr. Ali repeatedly expressed that the driver for change was his fear of future charges of professional misconduct. Council was gravely concerned that Dr. Ali provided little acknowledgement that the purpose of change is to prevent future harm to patients.

Council, while encouraged by Dr. Ali's acceptance of counseling and the need to change was not convinced that enough proof of change or the reason to change had been provided to fulfill the requirement for reinstatement of licensure.

**B. Is Council satisfied that Dr. Ali is unlikely to engage in other future unprofessional behaviour?**

Council concluded that the evidence provided regarding Dr. Ali's previous professional misconduct unrelated to sexual conduct was not sufficient to determine that, on a balance of probabilities, this conduct would not occur again.

Dr. Ali's unprofessional conduct has not been limited to his sexually improper conduct with four patients. These findings are referred to in Section IV, subsection 2 of this document. Dr. Ali testified that financial difficulties were a motivation for prescribing and charging for marijuana authorizations while his medical license was suspended. He acknowledges this was a mistake but he also indicates that he continues to face extreme financial difficulties at the present time. Given Dr. Ali's externalization of contributing factors for his behaviour as outlined in Dr. Collin's independent forensic report, Council was concerned that Dr. Ali had not provided sufficient evidence of change in his circumstances to ensure risk of repetition of previous behavior was low.

Council considered the *Sowemimo v. College of Physicians & Surgeons of Manitoba*, 2014 MBQB 4 (CanLII) decision of the Manitoba Court of Queen's Bench referred to by Mr. Salte. In paragraph 23 it states:

In cases which involve multiple factors, such as dishonesty and competency issues, the applicant must introduce evidence which is sufficient to satisfy the Executive Committee that the risk of repetition of any of the multiple behaviours which caused the initial cancellation of the licence is low;

The authorities cited by counsel suggest Council must be satisfied that the risk of reoffending is 'virtually nil', 'low' or within 'a substantial degree of medical and psychological certainty'.

Counsel for Dr. Ali suggested that Dr. Ali's proposed reintegration into practice is 'safe and reasonable'. Counsel for Dr. Ali suggested that this would be supported by the proposal of a comprehensive and restrictive reintegration plan for Dr. Ali which gives him the best chance of maintaining his well-being while ensuring the public safety and accountability of the profession (Council document Info 106-14, page 3, item 6).

Further support of this plan was offered by way of citation of Chief Justice Joyal in *Sowemimo to Ontario (CPSO) v Kulkarni*, 2004 ONCPSD 24 (CanLII) at paragraph 145 which states:

Our system allows for rehabilitation with the opportunity for reinstatement in appropriate cases once rehabilitation and sufficient public protection have been reasonably established"

However, the Court in *Sowemimo* also indicated (Council document 106\_14, Page 28, paragraph 50):

*Moreover, in respect of Sowemimo's broader argument about the reinstatement provision itself, it is important to recognize on a more holistic reading of the Act and its objectives, that it is not the purpose of the reinstatement provision to provide viable remediation and rehabilitation. Rather, it is upon proof of remediation and rehabilitation that the reinstatement becomes a viable possibility.*

Mr. Arbuthnott, both in his written reports and in-person testimony, stated Dr. Ali is now engaged in the work of rehabilitation and that ongoing treatment is required. Dr. Ali's presentation did not provide sufficient evidence that, outside of therapy, he had faced and managed stressful situations or has been accountable/governable. Dr. Ali has not been able to maintain any employment nor did he provide examples of situations where he demonstrated control over his emotions. Dr. Ali's testimony indicated he continued to blame sugar dysregulation for his previous behaviour. Council rejected this justification in Dr. Ali's previous license restoration application (CPSS Info 106\_14).

## **VII. Conclusion**

The Council concluded that the evidence presented in this matter does not satisfy it that the return of Dr. Ali to practice could occur with the public interest reasonably protected. The report of Dr. Collins, the independent forensic psychiatrist, did not indicate that the risk of Dr. Ali reoffending is virtually nil or low. Council, in previous decisions, has consistently used this level of certainty as a benchmark for public protection as suggested in the Alberta and Ontario

Colleges' reports previously referred to. Council further considers that while Dr. Ali has made improvement via therapy with Mr. Arbuthnott, Dr. Ali continues to require ongoing rehabilitation. The primary onus of proof that sufficient rehabilitation to protect the public interest has taken place was not met.

For these reasons Dr. Ali's application for restoration is denied and Council declines to lift the indefinite suspension.

A portion of the reasons referencing a third party has been redacted for publication

**IN THE MATTER OF *THE MEDICAL PROFESSION ACT, 1981,***

**SS 1980-81, c M-10.1, Section 86**

**AND IN THE MATTER OF AN APPLICATION FOR RESTORATION OF**

**LICENCE AND TERMINATION OF SUSPENSION**

**BY DR. AMJAD ALI OF REGINA, SASKATCHEWAN**

**Mr. A. Fox, Q.C. appearing for Dr. Amjad Ali**

**Mr. B. Salte, Q.C. for the College of Physicians and Surgeons of Saskatchewan**

### **Introduction**

1. Dr. Amjad Ali is a 68 year old male physician who has been found guilty of unprofessional conduct on five occasions in Saskatchewan. His licence to practice medicine was revoked in 2013 following a finding of unprofessional sexual conduct with three patients and breaching an undertaking with the College of Physicians and Surgeons of Saskatchewan (CPSS). Dr. Ali's application for restoration of licence was denied in 2014, 2016 and 2017. Dr. Ali has applied to the CPSS for restoration of his licence and termination of his ongoing suspension. The Council met on June 15, 2018 to hear his application. The priorities of Council in this matter remain to adjudicate if Dr. Ali, in this application, demonstrates that with restoration of his licence, the interests of the public have been protected through a negligible risk to reoffend while also maintaining the confidence of the public in the profession's ability to govern its members.

### **Decision**

2. The Council, for reasons set out in this document, finds Dr. Ali has failed on a balance of probabilities to satisfy the onus placed upon him under Section 86 of *The Medical Profession Act, 1981* that the confidence of the public in the profession's ability to govern its members will be maintained. Based on the evidence presented, Council was unable to establish that minimal risk to public safety will continue should Dr. Ali be restored to the register of the College. Therefore Dr. Ali's application is denied.

### **RELEVANT LEGISLATION**

Restoration of Licence – section 86 of *The Medical Profession Act, 1981*

86. *“The Council may restore the licence or permit, as the case may be, of any person where it considers that the interest of the public has been adequately protected, and it may require that person to pay a restoration fee, the amount of which is not to exceed the amount of the registration fee.”*

Protection of Public – section 69.1 of *The Medical Profession Act, 1981*

69.1 *“In any proceeding before the competency committee or the discipline hearing committee, in any consideration by the Council of a report from either of these committees and in any appeal pursuant to this Act, the protection of the public and safe and proper practice shall take priority over the rehabilitation, treatment and welfare of a person registered under this Act.”*

## **ONUS OF PROOF**

3. There is no disagreement among counsel or this Council that the onus of proof lays on the applicant to establish on a balance of probabilities “that the interest of the public has been adequately protected”. The non-exemptible standards for a certificate of registration under the Saskatchewan College bylaws, Section 2.3(a), are accepted as necessary for a restoration application and are:

*“that the applicant’s past and present conduct afford reasonable grounds for the belief that the applicant is:*

- i. mentally competent to practice medicine*
- ii. will practice with decency, integrity, honesty and in accordance with the law*
- iii. has sufficient knowledge, skill and judgment to engage in the kind of medical practice authorized in the certificate; and*
- iv. can communicate effectively and will display an appropriately professional attitude”*

4. The burden then is on the applicant to establish in a clear, cogent and convincing manner that his experience, character and attitudes are such that the public interest is protected if he is restored to the College’s register. It is possible to meet the burden upon an applicant for restoration under Section 86 of the *Act* even in the face of the substantial past history of discipline matters involving the applicant. The record is important in setting out those issues previously determined to require rectification.

## **History of Professional Misconduct in Saskatchewan**

5. Dr. Ali has been found guilty of unprofessional conduct on five occasions in Saskatchewan:

- i. In 2013 he pled guilty to five charges of unprofessional conduct relating to providing Marihuana authorizations to two patients while suspended;
- ii. In 2013 his licence was revoked following a finding of unprofessional sexual conduct with three patients and breaching an undertaking to the College;
- iii. In 2012 his licence was suspended following a finding of unprofessional conduct for altering the record of a patient who complained to the College about him;
- iv. In 2011 his licence was suspended following a finding of unprofessional conduct for participating in the forgery of a document and providing untruthful information to the Preliminary Inquiry Committee investigating the matter;
- v. In 2005 his licence was suspended and he was required to take a boundaries education course following a finding of sexually improper conduct with two patients.

## **EVIDENCE CONSIDERED**

- i. Testimony of Dr. Amjad Ali
- ii. Presentation of Mr. A. Fox Q.C. on behalf of the applicant
- iii. Dr. Ali, Application for Reinstatement of Licence (Info 124\_18)
- iv. Prior documentation considered at 2017
- v. Registrar's presentation to Council Dr. Ali – restoration application (Info 125\_18)
- vi. Presentation of Mr. B. Salte Q.C. on behalf of the Office of the Registrar
- vii. Reasons for Decision - Denying Dr. Ali's Application for Reinstatement 2016 (Info 289\_17)
- viii. Reasons for Decision – Denying Dr. Ali's Application for Reinstatement 2017 (confid 1\_18)

## ANALYSIS OF ISSUES

### Risk to Re-offend

6. As with prior hearings on this matter, the assessment of the risk to reoffend was paramount in the decision to reinstate licensure or not. Prior applications for reinstatement had failed to produce objective expert opinion that clearly supported a negligible potential for re-offence. The Council recognized that no expert can definitively predict such a limited risk with 100% accuracy, however, the Council was not previously convinced that expert witnesses were sufficiently willing to support such a position. In this setting, it would have been imprudent for Council to make such a decision in the absence of clearly supported expert evidence.

7. A psychiatric assessment was obtained by counsel for Dr. Ali and is labelled as CPSS document **Confid. 86\_17**. This assessment was completed by Dr. Jonathon Rootenberg. The Council accepted the credentials of the reviewer and appreciated the efforts of Dr. Ali and his counsel to obtain the review. The review was found to be thorough and was accepted as valid.

A synopsis of recommendations follows:

- i. Continued psychiatric care
- ii. Continue to follow with his family physician and endocrinologist
- iii. Ongoing clinical supervision
- iv. A chaperone present for all clinical interactions with female patients

8. As discussed in our reasons for denying Dr. Ali's last application, Dr. Rootenberg had read and interpreted prior decisions of Council on this matter, and was under the clear mandate of delivering a psychiatric review that would provide a clear assessment of risk to reoffend, it was remarkably concerning to Council that such a statement was not contained within the document provided. This shortcoming was partially addressed through follow-up communication with the Office of the Registrar. Dr. Rootenberg subsequently provided clarification on this essential question.

*“if Dr. Ali complies fully with all of the proposed conditions as outlined above, in my clinical psychiatric opinion, then he would constitute a low risk to reoffend, and there will be minimal risk to public safety.”*

9. The Council was willing to concede that if strict conditions could be enacted to govern any future practise of Dr. Ali, it is possible that he could be scrutinized to a sufficient degree to minimize his risk of re-offense.

10. Counsel for Dr. Ali has previously drafted a list of conditions which would be applied to Dr. Ali's practise, should licensure be reinstated. The conditions, contained within CPSS document **Info 288\_17** were amended to the following:

- i. He will continue to receive medical treatment, including taking his medication and provide confirmation to the College that he is doing so. This would include, if directed by the College, attending for testing to confirm compliance;
- ii. Dr. Ali will continue to receive such counselling as may be directed by Mr. Arbuthnott or the College;
- iii. That he will only attend upon female patients in the presence of a chaperone;
- iv. That there will be an appropriate sign placed in any office or area where he works, or any examination room, advising that Dr. Ali will only attend upon a female patient in the presence of a chaperone;
- v. That all female patients who are attended upon by Dr. Ali will sign a form acknowledging that a chaperone was present;
- vi. He will be restricted initially to seeing a maximum of 40 patients per day and to working a maximum of 5 days a week. Any increase must be approved by the College;
- vii. All staff working in the clinic where Dr. Ali works shall sign a form acknowledging that they are aware of these conditions and will undertake to comply with same and will report to the College any breach of the conditions by Dr. Ali;
- viii. Dr. Ali will be subject to random inspection of his practice;
- ix. Dr. Ali will be subject to monitoring his practice by the College.
- x. Dr. Ali shall, until such time as the College directs otherwise, have a workplace monitor or manager approved by the College, who will regularly report to the college of Dr. Ali's compliance with the conditions;

### **Mitigating risk of Re-Offense**

11. A central pillar of Dr. Ali's application relies on his ability to adhere to conditions set down by his psychiatrist, proffered by his counsel and modified by the Council. It was, in part, the apparent willingness to modify these conditions which led to his application being refused in 2017.

12. Dr. Ali and his counsel have attempted to convince Council that his prior willingness to modify his conditions is no longer the case. The credibility of this argument was not established to Council's satisfaction.

13. Throughout the many hearings regarding this physician, it has been stressed by Dr. Ali and his various lawyers, that most if not all of his problems have arisen as a result of his tenuous physical health and the effect this has on his mental health and stability. It has been proposed that by carefully monitoring his physical health and

work life balance, his decision making processes can be optimized, to keep him on the straight and narrow, as it were.

14. It is apparent from the documentation provided by the applicant that he has taken appropriate measures to ensure that his physical health is optimized. It is not clear to the Council, that he has taken similar steps to ensure his planned return to practice will enable his ongoing good health. Dr. Ali has repeatedly stated that he is ready to return to general family practice seeing up to 40 patients per day. While this number was accepted with some hesitancy on past applications, it is worrisome that Dr. Ali considers 40 patients as an acceptable 'starting point'. Councillors who are family practitioners unanimously agree that this is an extremely busy practise load, and not likely to be conducive to ongoing work life balance, which has been proposed to be essential to the mitigation of Dr. Ali's risk to reoffend.

15. Dr. Ali has been lucky enough to be offered employment by a group practise in Regina. This clinic has agreed to take Dr. Ali as a contract physician under any conditions deemed acceptable to Council. The proposal brought to Council suggests Dr. Ali intends to join an established practise working at a satellite clinic of the main practise. This clinic is currently staffed by a solo female physician whom Dr. Ali has never met, and who has provided no assurance of oversight of Dr. Ali's practise. Of greater concern is the fact that the two senior partners of the main clinic have had findings of professional misconduct against them as recently as 2017. These factors demonstrated to Council that Dr. Ali has not given due consideration to a safe return to practise. As such, it is the opinion of Council that Dr. Ali is potentially at risk of working in an inadequately supervised practise, with a starting workload which may predispose to significant work life imbalance. These stressors are established by his psychiatrist to be prime factors in mental health deterioration which, in turn, may lead to decisions which place the public at unacceptable risk.

### **Governability**

16. Dr. Ali's history of professional misconduct and subsequent discipline has focused a great deal on his lack of governability. The College remains committed to maintaining the reputation of the profession. In the setting of a physician who is ungovernable, it becomes impossible for the Council to maintain the trust of the public we serve.

17. Council accepts that in an appropriately supervised practise, with compliance to the conditions suggested by counsel for Dr. Ali, there may be an acceptably low risk of re-offence and that the public could be adequately protected. It is therefore essential that Dr. Ali will remain compliant with the conditions as modified by this Council.

18. At his last application hearing, Dr. Ali's testimony did not fully support this assurance. Dr. Ali articulated that he understands the harm he has caused. He also reassured the Council that he recognizes that blame for his decisions, and the harm they caused, lies with him alone. The majority of Council accepts that Dr. Ali has made significant strides in gaining insight. Unfortunately that was not in itself sufficient.

19. During the 2017 questioning, Dr. Ali was asked how he would re-integrate into practise if licensure was restored or words to that effect. The ensuing comments described a return to supervised group family medicine practice in Regina. Council was collectively shocked by the almost immediate willingness of Dr. Ali to modify the terms of the conditions put forward by his counsel with respect to managing his workload as detailed in his proposed undertaking. It was evident that Dr. Ali regarded the working restrictions as an early start point that could be modified in the immediate future. Without being led to do so, he plainly described a scenario where he might modify his working hours to meet with clinic needs that would breach the conditions of his proposed undertaking. Further, if there were patients remaining at the end of his shift, he would feel obligated to see them prior to closing the clinic regardless of the cap on patient numbers imposed by the proposed conditions.

20. In great part, based on the absolute failure of Dr. Ali to convince the Council of his willingness to adhere to agreed-upon conditions, his current application was heard and scrutinized to determine if the Council was able to consider Dr. Ali a credible applicant. Unfortunately Dr. Ali failed to convince the Council of his credibility, and as such his application was denied. There were several factors that allowed Council to reach this conclusion. These are articulated as follows;

21. At the outset of any Council hearing, the President of Council will ask the Councillors to introduce themselves by name to the applicant. It is common for Counsel for the applicant to introduce the applicant during this process. Mr. Fox is familiar with this process, however in this instance Dr. Ali chose to introduce himself. Dr. Ali introduced himself using words to the effect of;

*"I'm Dr. Amjad Ali, I'm a regular here."*

22. The manner in which Dr. Ali chose to introduce himself was peppered with levity. In and of itself, the Council is appreciative of levity in the appropriate setting. This was clearly not the appropriate setting. While this may have seemed minor to the outside observer, many members of Council have spent countless hours scrutinizing documentation and attentively listening to arguments regarding this physician's established misconduct. An application for reinstatement under such circumstances, must be undertaken with the greatest of humility and gravity. Council was perplexed by Dr. Ali's apparent lack of understanding as to the gravity of his circumstances.

23. [REDACTED]

[REDACTED] The majority of Council has an extensive history with this applicant. Based, in part, on this history, it was the opinion of Council that Dr. Ali's responses were scripted to a degree that does not encourage Council to accept them as credible.

24. The Council was unable to determine that Dr. Ali's assertions were credible, or that his planned return to practise was prudent. As such, the Council was unable to determine that the public could be adequately protected should Dr. Ali be returned to practise. For these reasons, Dr. Ali's application for reinstatement was denied.

Accepted by Council of the College of Physicians and Surgeons: **15 September, 2018**

**IN THE MATTER OF *THE MEDICAL PROFESSION ACT, 1981,***  
**SS 1980-81, c M-10.1, Section 86**  
**AND IN THE MATTER OF AN APPLICATION FOR RESTORATION OF LICENCE AND**  
**TERMINATION OF SUSPENSION**  
**BY DR. AMJAD ALI OF REGINA, SASKATCHEWAN**

**NOVEMBER 30, 2018**

**Mr. B. Salte, Q.C. appearing for the College of Physicians & Surgeons of Saskatchewan**

**Written submissions provided by Dr. A. Ali.**

**BACKGROUND**

Dr. Ali has a long-standing history with the College of Physicians and Surgeons of Saskatchewan. He currently does not hold a license to practice medicine in Saskatchewan.

In June of 2018, Council rejected Dr. Ali's application for restoration of his license. Reasons for that decision were accepted by Council at its meeting of September of 2018. Council had ongoing concerns of governability and inability to put in place appropriate restrictions on his practice that would protect the public.

Dr. Ali has requested a hearing to hear arguments regarding new documents in support of his request. It is assumed that this would take the form of a hearing toward restoration of licensure. The Executive Committee of Council reviewed submissions on behalf of Dr. Ali and concluded that, due to the complexity and longevity of Dr. Ali's interactions with the College, decision on this matter would be deferred to Council at its next regular meeting.

Dr. Ali's current application is not an appeal of previous decisions of Council. The current application is submitted with new information in support of Dr. Ali's request for restoration of licensure. It is understood by Council and Dr. Ali that the onus remains on Dr. Ali to demonstrate with supporting evidence that sufficient changes have occurred which would give Council reason to believe that his application is credible, and that he would be able to practice under such restrictions deemed necessary to maintain the safety of the public.

The details of the previous long-standing history of professional misconduct is well documented and will not be reproduced in this document.

**POSITION OF DR. ALI**

Dr. Ali provided an email request to the College. This email was submitted to Council as an attachment to CPSS document Info 248\_18. This email proceeds to respond to the primary reasons for denial of his previous application for restoration. Dr. Ali's rebuttal to Council's

concerns regarding levity and lack of credibility were attributed to his professed nervousness while presenting to Council. Dr. Ali denies being coached by his counsel as to his comments in response to prior denied applications for restoration. Dr. Ali commented on his ongoing therapy progress. Dr. Ali commented on his willingness to comply with previously suggested restrictions on practice, should restoration of licensure be achieved.

Dr. Ali provided documentation from his psychologist Mr. Dennis Arbuthnott. This letter is CPSS document Info 265\_18. Mr. Arbuthnott indicates that progress has been made by Dr. Ali in all areas. Mr. Arbuthnott concluded that Dr. Ali is ready to return to practice, and poses minimal risk to the public. He also recommended that Dr. Ali continues with therapy.

Dr. Ali also provided documentation from Dr. Ijaz supporting his return to practice. This is attached to CPSS document info 248\_18. With the permission of the Registrar, Dr. Ali completed a four-week observership at Albert and Parliament Primary Health Care Clinic in Regina. Dr. Ijaz commented on Dr. Ali's professionalism as well as a broad general medical and pharmacology knowledge. Dr. Ijaz suggested that if Dr. Ali is successful in his application, a walk-in clinic practice opportunity would be offered by the owners of Albert and Parliament Primary Health Care. Further confirmation was given that Council mandated restrictions would be supervised by the clinic physicians and staff. In addition it was put forward by Dr. Ijaz that Dr. Ali would not see any female patients and would not prescribe opioids.

No specific documentation was provided with respect to other ongoing health concerns that have been pertinent to past Council decisions.

## **THE POSITION OF THE REGISTRAR'S OFFICE**

The Office of the Registrar offered no opinion as to its support or lack of same for this application. In June of 2018 Dr. Ali had not satisfied Council that he was safe to practice medicine. The Office of the Registrar re-established that the Council must satisfy itself with submitted materials that the situation has changed to a degree allowing Council to have confidence that Dr. Ali is safe to practice and poses minimal risk to public safety. The Office of the Registrar advised that a decision in favour of Dr. Ali's application would require Council to identify conditions under which Dr. Ali would be required to practice and that such conditions would make the basis of an undertaking to be signed by Dr. Ali.

## **DECISION**

After deliberating on the new submission and prior decisions, Council declined to approve Dr. Ali's application for restoration of his licence.

## **REASONS FOR DECISION**

New evidence in support of Dr. Ali's application included an email from Dr. Ali, a letter of support from Mr. Arbuthnott and a letter from Dr. Ijaz. The onus remains on Dr. Ali to present evidence that he is able to return to practice in a manner that will enable him to pose minimal appreciable risk to the public. The submissions of Dr. Ali did not convince Council of a sufficient change in circumstances to support a return to licensure.

In past deliberations, Dr. Ali has provided documentation in support of his application from his counsellor. Unfortunately, despite affirmations from Dr. Arbuthnott that Dr. Ali is fit to return to practice, subsequent verbal testimony and questioning of Dr. Ali convinced Council that this was not the case.

Council has maintained two specific criteria as paramount in this matter. These factors are credibility and governability.

Council needs to be convinced of Dr. Ali's credibility. In the absence of credibility, Dr. Ali's assertions that he will remain compliant with practice restrictions and conditions could not be relied upon. In such circumstances, Council cannot adequately ensure the safety of the public.

Submissions provided by Dr. Ijaz on behalf of Dr. Ali, do imply a significant amount of oversight supervision. While this allayed some of the concerns of Council, it is insufficient. Dr. Ijaz is not a family physician, and as such is not in a position to specifically allay the concerns of the Council with respect to Dr. Ali's return to family practice. Other owners of the clinic in question should document their perspectives to Council as they are practicing family physicians. No documentation was provided which would confirm the ability or appropriateness of the other doctors servicing this clinic, to provide supervision of Dr. Ali. It is unclear who the supervising physicians would be, the status of their licensure, and thereby their appropriateness as supervisors. It was significant that submissions on this application were from a different clinic than previous submissions, however, it remains unclear as to the extent of supervision and patient load control that can be exercised.

It would have been helpful if the clinic currently offering employment, could provide clear documentation as to processes that would enable Dr. Ali to practice under the restrictions considered appropriate at the previous 2018 application.

Until such time as further, convincing, submissions are made by or on behalf of Dr. Ali, Council is not willing to schedule a restoration hearing. It is only via the combination of written submissions and verbal questioning that Council will be able to determine credibility and thereby assess a potential return to governability and subsequent possible return to practice.

**Accepted by Council of the College of Physicians and Surgeons of Saskatchewan:**

**IN THE MATTER OF *THE MEDICAL PROFESSION ACT, 1981,***  
**SS 1980-81, c M-10.1, Section 86**  
**AND IN THE MATTER OF AN APPLICATION FOR RESTORATION OF LICENCE AND**  
**TERMINATION OF SUSPENSION**  
**BY DR. AMJAD ALI OF REGINA, SASKATCHEWAN**

**NOVEMBER 30, 2018**

**Mr. B. Salte, Q.C. appearing for the College of Physicians & Surgeons of Saskatchewan**

**Written submissions provided by Dr. A. Ali.**

**BACKGROUND**

Dr. Ali has a long-standing history with the College of Physicians and Surgeons of Saskatchewan. He currently does not hold a license to practice medicine in Saskatchewan.

In June of 2018, Council rejected Dr. Ali's application for restoration of his license. Reasons for that decision were accepted by Council at its meeting of September of 2018. Council had ongoing concerns of governability and inability to put in place appropriate restrictions on his practice that would protect the public.

Dr. Ali has requested a hearing to hear arguments regarding new documents in support of his request. It is assumed that this would take the form of a hearing toward restoration of licensure. The Executive Committee of Council reviewed submissions on behalf of Dr. Ali and concluded that, due to the complexity and longevity of Dr. Ali's interactions with the College, decision on this matter would be deferred to Council at its next regular meeting.

Dr. Ali's current application is not an appeal of previous decisions of Council. The current application is submitted with new information in support of Dr. Ali's request for restoration of licensure. It is understood by Council and Dr. Ali that the onus remains on Dr. Ali to demonstrate with supporting evidence that sufficient changes have occurred which would give Council reason to believe that his application is credible, and that he would be able to practice under such restrictions deemed necessary to maintain the safety of the public.

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## **DECISION**

After deliberating on the new submission and prior decisions, Council declined to approve Dr. Ali's application for restoration of his licence.

## **REASONS FOR DECISION**

New evidence in support of Dr. Ali's application included an email from Dr. Ali, a letter of support from Mr. Arbuthnott and a letter from Dr. Ijaz. The onus remains on Dr. Ali to present evidence that he is able to return to practice in a manner that will enable him to pose minimal appreciable risk to the public. The submissions of Dr. Ali did not convince Council of a sufficient change in circumstances to support a return to licensure.

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