



Dr. Alistair DUDLEY

Council Decision

Outcome Date: January 21, 2017

The Council of the College of Physicians and Surgeons imposes the following penalty on Dr. Alistair Dudley pursuant to *The Medical Profession Act, 1981*:

- 1) Pursuant to Section 54(1)(b) of *The Medical Professional Act, 1981*, the Council hereby reprimands Dr. Dudley. The format of said reprimand to be written by the President;
- 2) Pursuant to Section 54(1)(b) of *The Medical Profession Act, 1981*, the Council hereby suspends Dr. Dudley for a period of 4 months commencing on a date to be chosen by Dr. Dudley but not later than February 21, 2017. If Dr. Dudley does not choose an earlier date than February 21, 2017 his suspension will begin at 12:01 a.m. on February 21, 2017;
- 3) Pursuant to Section 54(1)(b) of *The Medical Profession Act, 1981*, the suspension will remain in effect until Dr. Dudley provides an undertaking to the College, in a form acceptable to the Registrar, that contains the following:
 - a) Dr. Dudley's agreement that he will establish a relationship with a mentor, who is approved by the Registrar, and will meet with the mentor on a regular basis, not less than once per month, to review the concept of "slippery slopes" in boundary violations, stresses of practice, and maintaining the integrity of professional boundaries with patients. The undertaking will contain a statement that the Registrar may authorize Dr. Dudley to meet less frequently than monthly and may release Dr. Dudley from the requirement that he maintain a relationship with a mentor;
 - b) Dr. Dudley's agreement that he will immediately advise the College if his relationship with the mentor ends, or if he is unable to meet the requirements of paragraph (a);
 - c) Dr. Dudley's agreement that he irrevocably authorizes a mentor to provide reports to the College on such frequency as the Registrar may require;
 - d) Dr. Dudley's agreement that he will be responsible for all costs associated with the mentor;
 - e) Dr. Dudley's agreement that he will actively participate with the Physician Health Program of the Saskatchewan Medical Association and his agreement that he will follow the recommendations of the Physician Health Program;

- f) Dr. Dudley's agreement that if the Physician Health Program recommends an ADHD coach or couples counselling, or counselling in relation to trauma intervention, he will follow those recommendations;
 - g) Dr. Dudley's agreement that he will cooperate with the Physician Health Program in completing an assessment to determine whether, in the opinion of the program, a Substance Abuse Subtle Screening Inventory (SASSI) is necessary, and to assess whether Dr. Dudley should be subject to monitoring in relation to his use of alcohol;
 - h) Dr. Dudley's agreement that if the Physician Health Program recommends monitoring in relation to Dr. Dudley's use of alcohol, he will comply with that monitoring;
 - i) Dr. Dudley's agreement that he will meet with the Physician Health Program, and any additional individuals which the Executive Director of the Physician Health Program may recommend, to complete a review of the boundaries course which he has attended;
 - j) Dr. Dudley's agreement that he will complete victim empathy statements with respect to the two individuals referenced in the charges of unprofessional conduct with respect to whom he has not yet completed victim empathy statements;
 - k) Dr. Dudley's agreement he will not have any in-person professional encounters with female patients in his office practice, except in the presence of a female chaperone;
 - l) Dr. Dudley's agreement that the chaperone shall initial each patient chart for which she is present;
 - m) Dr. Dudley's agreement that he will maintain a second written record kept chronologically for each patient. The record will be kept by him and initialled by the chaperone who was present during the encounter. He will ensure that contemporaneously with any encounter or interaction with any female patient in his office, the chaperone will initial the written record in addition to the patient chart;
 - n) Dr. Dudley's agreement that he agrees to unannounced inspections by the College to monitor his compliance with the undertaking;
 - o) Dr. Dudley's agreement that he will post a clearly visible sign in his waiting room and each of his examination rooms in his clinic that states that he will not see female patients without the presence of a female chaperone;
 - p) Dr. Dudley's agreement that the College can provide a copy of the undertaking to the physicians with whom he currently works at the Idylwyld Medical Centre and the physicians at any other clinic where he works;
 - q) A statement that the terms of the undertaking will remain in effect while Dr. Dudley remains licensed in Saskatchewan unless the Council agrees to an amendment to or a termination of the undertaking.
- 4) Pursuant to section 54(1)(i), the Council directs Dr. Dudley to pay the costs of and incidental to the investigation and hearing in the amount of \$1,500.00. Such payment shall be made in full by February 1, 2017.

- 5) Pursuant to section 54(2), if Dr. Dudley should fail to pay the costs as required by paragraph 4, Dr. Dudley's licence shall be suspended until the costs are paid in full.
- 6) The Council reserves to itself the right to amend any of the terms of this penalty decision, upon application by Dr. Dudley. Without limiting the authority of the Council, the Council may release Dr. Dudley from any of the terms of the undertaking required by paragraph 3, may authorize Dr. Dudley to enter into an undertaking on different terms than set out in paragraph 3, or may extend the time for Dr. Dudley to pay the costs required by paragraph 4.

**IN THE MATTER OF A SECTION 49 OF *THE MEDICAL PROFESSION ACT*,
1981 PENALTY HEARING FOR DR. ALISTAIR DUDLEY**

Ms. Michelle Ouellette, Q.C. appearing for Dr. Alistair Dudley

**Mr. Bryan E. Salte Q.C. appearing for the College of Physicians and
Surgeons of Saskatchewan**

REASONS FOR DECISION

INTRODUCTION AND BACKGROUND

In response to complaints raised to the College and subsequent investigation of those complaints the Executive Committee of the Council of the College of Physicians and Surgeons of Saskatchewan laid charges on Tuesday May 24, 2016. Subsequently application was made by Counsel for Dr. Dudley to amend the charges. Subsequent to discussion at Council on 20 January, 2017 the initial charges were withdrawn and the following charges were laid:

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 charges against Dr. Alistair Dudley, namely:

- 1) You Dr. Alistair Dudley are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of Section 46(o) and/or section 46(p) of The Medical Profession Act, 1981 s.s. 1980-81 c. M-10.1 and/or bylaw 8.1(b)(ix) and/or bylaw 8.1(b)(xvi) of the bylaws of the College of Physicians and Surgeons of Saskatchewan.

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

- a) A female person hereinafter referred to in this charge as “Patient Number 1” was your patient;
 - b) During your interaction with Patient Number 1, you made the following comments, or comments to a similar effect:
 - i. You told Patient Number 1 that the only reason her boyfriend was dating her was so that he could have multiple other girls on the side;
 - ii. You told Patient Number 1 that as a guy you would look at her and want to have sex with her and you would lie in order to get it;
 - iii. You told Patient Number 1 that at this stage in her life all she was going to see was “dicks and assholes”;
 - c) During your interaction with Patient Number 1, you hugged her.
- 2) You Dr. Alistair Dudley are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of Section 46(o) and/or section 46(p) of The Medical Profession Act, 1981 s.s. 1980-81 c. M-10.1 and/or bylaw

8.1(b)(ix) and/or bylaw 8.1(b)(xvi) of the bylaws of the College of Physicians and Surgeons of Saskatchewan. The evidence that will be led in support of this charge will include some or all of the following:

- a) A female person hereinafter referred to in this charge as “Patient Number 2” was your patient;
 - b) During your interaction with Patient Number 2, you made the following comments, or comments to a similar effect:
 - i. You commented that how you looked at her was usually how you look at someone before you kiss them;
 - ii. You commented that her legs were shaved;
 - iii. You stated “Nice panties. I like it when girls wear nice panties”;
 - iv. You referred to her as beautiful;
 - c) During your interaction with Patient Number 2, you raised the subject of how many sex partners the typical person has in life. Your comments were unrelated to the reason she consulted you;
 - d) During your interaction with Patient Number 2, you stated that gay people have more sex than straight people because gay people don’t have children, or used words with a similar meaning. Your comments were unrelated to the reason she consulted you.
- 3) You Dr. Alistair Dudley are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of Section 46(o) and/or section 46(p) of The Medical Profession Act, 1981 s.s. 1980-81 c. M-10.1 and/or bylaw 8.1(b)(ix) and/or bylaw 8.1(b)(xvi) of the bylaws of the College of Physicians and Surgeons of Saskatchewan. The evidence that will be led in support of this charge will include some or all of the following:
- a) A female person hereinafter referred to in this charge as “Patient Number 3” was your patient;
 - b) You told Patient Number 3 that you were going to stick your hands down her pants, or used words of similar meaning;
 - c) You performed an exam for scoliosis on Patient Number 3 without waiting for a response from her;
 - d) You performed an examination for scoliosis on Patient Number 3 without obtaining her consent;
 - e) After a brief examination, you advised Patient Number 3 that she had scoliosis;
 - f) You made a comment to Patient number 3 about the size of her breasts;
 - g) The comment to Patient Number 3 about the size of her breasts was unrelated to the reason for which she consulted you;
 - h) You made a comment to Patient number 3 about the size of her waist;
 - i) The comment to Patient Number 3 about the size of her waist was unrelated to the reason for which she consulted you;
 - j) You squeezed the knee of Patient Number 3 and told her to “just relax” or used words of similar meaning;
 - k) You asked Patient Number 3 how old she was, or used words of similar meaning;
 - l) You asked Patient Number 3 whether she was married or used words of similar meaning;

- m) Your inquiry about Patient Number 3's age and marital status were unrelated to the reason for which she consulted you.
- 4) You Dr. Alistair Dudley are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of Section 46(o) and/or section 46(p) of The Medical Profession Act, 1981 s.s. 1980-81 c. M-10.1 and/or bylaw 7.1, paragraphs 31 and/or 34 of the Code of Ethics contained in bylaw 7.1, and/or bylaw 8.1(b)(ix) of the bylaws of the College of Physicians and Surgeons of Saskatchewan. The evidence that will be led in support of this charge will include some or all of the following:
- a) A female person hereinafter referred to in this charge as "Patient Number 4" was your patient;
 - b) You referred to Patient Number 4's constipation by stating that she was "full of shit" or used words of similar meaning;
 - c) You stated to Patient Number 4 that if her condition was causing her that much pain she should never try anal sex, or used words of similar meaning;
 - d) Patient Number 4 had not consulted you with respect to any issues of a sexual nature;
 - e) When speaking to Patient Number 4 you made reference to your sexual relationship with your wife by stating that her anal canal is a "one way street for her", or used words of similar meaning;
 - f) You asked a member of the staff at the clinic where you were working for the results of the pregnancy test for Patient Number 4 in a manner that your request could be overheard by others;
 - g) You failed to take adequate steps to protect the confidentiality of Patient Number 4's personal health information by failing to take adequate steps to ensure that other persons would not be aware that Patient Number 4 had undergone a pregnancy test.

Dr. Dudley entered a guilty plea to the amended charges of unprofessional conduct and signed an admission of guilt dated 21 January, 2017. The Council then proceeded to address the penalty hearing on 21 January, 2017.

DR. DUDLEY'S BACKGROUND

Dr. Dudley is a 34 year old physician who trained in South Africa. He obtained his medical degree in 2007. He entered the SIPPA assessment in 2011. He was successful in that assessment and successfully completed a summative assessment which led to his current regular licence.

He previously practised in Kamsack.

Dr. Dudley currently practises at the Idylwyld Medical Centre.

Dr. Dudley has no prior history of serious complaints with the College.

THE POSITION OF THE COLLEGE

Four patients were victimized by Dr. Dudley. The events in question involved several physical boundary breaches with unsolicited touching, several sensitive and highly inappropriate physical examinations without appropriate permission, and a number of comments that were grossly inappropriate. The bizarre nature and scope of the alleged misconduct was of sufficient gravity that the Registrar had significant reservations about allowing Dr. Dudley to remain in practise during the course of the investigation and subsequent discipline hearings if required. As a result the Registrar, under the direction of the Executive Committee of the Council, presented an undertaking to Dr. Dudley. The Executive Committee and Registrar were satisfied that the undertaking, if adhered to, would ensure the safety of the public while allowing Dr. Dudley to remain in practise pending disposition of this matter. That undertaking was signed by Dr. Dudley on 11 May, 2016.

The College sought a psychiatric assessment via a Physician Health Program referral. After examination by Dr. Mela, who serves as a forensic psychiatrist, no clear medical explanation for the behaviours could be identified. Several underlying psychological factors were identified as contributing to the behaviour. There was no evidence of a paraphilia, nor was there specific indication that sexual gratification was the underlying motivation for Dr. Dudley's behaviour.

The impact of Dr. Dudley's behaviours on the patients was reinforced and will be discussed in greater detail later in this document.

In an attempt to provide Council with cases for comparison while determining penalty, Counsel for the College cited CPSO penalty decisions for similar cases:

Dr. Bonin, Miguel (2012) was found guilty of repeated instances of highly inappropriate and potentially sexualized comments to patients. He was suspended from practise for three months.

Dr. Chotiany, Philp (2011) was found guilty of inappropriate sexualized comments. He was also guilty of performing sensitive examinations without adequate warning to the patient. He was also found guilty of not respecting spatial boundaries during a breast examination. He was suspended for 2 months, reprimanded and placed under chaperone while performing sensitive examinations.

Dr. Gotkind, Lawrence (2005) was found guilty of inappropriate comments and requesting to see a patient's breasts for unjustified reasons. He was guilty of non-sexual touching boundary breaches against several patients. He was guilty of inappropriate comments to an adolescent girl regarding her provocative mode of dress. He was reprimanded and suspended for 4 months. He was made to notify each of his female patients of the discipline finding.

Dr. Hajcsar, Ernest (2014) was found guilty of boundary breaches with a single patient involving both inappropriate comments and touching, hugging and kissing. He was suspended for two months and reprimanded. He was ordered to pay costs.

Dr. Leatherdale, Charles (2004) was found guilty of inappropriate comments leading a patient to terminate contact. He was suspended for two months.

Mitigating factors brought forward by Counsel for the College included:

- 1) Dr. Dudley promptly admitted his misconduct;
- 2) Dr. Dudley agreed to an undertaking under which he was required to have a chaperone present for interactions with female patients and undergo an assessment;
- 3) Dr. Dudley's admission of the conduct spared the four patients from having to be re-traumatized by testifying.

Counsel for the College suggested that the Registrar's Office would consider appropriate penalty to include:

- 1) A suspension from practice of between two and four months. In order to allow Dr. Dudley time to make arrangements for notification to patients, Dr. Dudley should be permitted to select any date on or before February 21, 2017 for the suspension to begin. If he does not select a date, it will begin February 21.
- 2) A requirement that Dr. Dudley pay costs of \$1,500.
- 3) A requirement that Dr. Dudley enter into an undertaking, based principally on the recommendations from Dr. Mela that will contain the following:
 - a) A requirement that he establish and maintain a relationship with a mentor
 - b) A requirement that he will actively participate with the Physician Health Program of the Saskatchewan Medical Association and his agreement that he will follow the recommendations of the Physician Health Program, including participating in counselling that may be recommended by the Physician Health Program;
 - c) A requirement that he will cooperate with the Physician Health Program in completing an assessment to determine if he should be subject to monitoring in relation to his use of alcohol and if monitoring is recommended, that he will comply with that monitoring;
 - d) A requirement that he review the information from the boundaries education program he attended with the Physician Health Program;
 - e) A requirement that he will complete victim empathy statements with respect to the two individuals referenced in the charges of unprofessional conduct with respect to whom he has not yet completed victim empathy statements.
 - f) A requirement that the existing restrictions related to having a chaperone present for interactions with female patients will continue.

THE POSITION OF DR. DUDLEY

Dr. Dudley was represented by Ms. Michelle Ouellette, Q.C. Counsel for Dr. Dudley argued both in submitted argument and verbal presentation that Dr. Dudley was in fact guilty of the amended charges presented prior. The argument was presented that the misconduct in question occurred while working as a locum in Melfort following a particularly tumultuous period of practise in Kamsack. Dr. Dudley claims to have been suffering from 'burn out' at the time.

Further, Dr. Dudley complied with the suggestions of the Physician Health Program and underwent intensive scrutiny by Dr. Mela. Prior to penalty being decided, Dr. Dudley

attended a boundaries course. Dr. Dudley has established an ongoing clinical relationship with a professional counsellor who will specifically act as an ADHD coach moving forward with Dr. Dudley's rehabilitation.

Mitigating factors brought forward in written submission by Counsel for Dr. Dudley are paraphrased, as follows:

- 1) Dr. Dudley has consistently expressed that his conduct was not sexually motivated. Dr. Dudley understands why his comments could be perceived as sexual by a patient.
- 2) Dr. Dudley has the support of his wife.
- 3) Dr. Dudley voluntarily underwent an extensive psychiatric assessment by Dr. Mela in the fall of 2016.
- 4) Dr. Mela makes several important findings in his report. They are summarized below.

ADHD

- a. First, he diagnosed Dr. Dudley with a subtle form of adult ADHD. Prior to this assessment, Dr. Dudley had not been diagnosed with ADHD. Dr. Mela noted that stress would be likely to uncover a masked level of inattention, and that Dr. Dudley had a tendency to be impulsive.
- b. More importantly, Dr. Mela noted that no psychopharmacotherapy would be required.

Lack of Sexual Deviance or Sexual Motivation

- c. Dr. Mela confirmed that Dr. Dudley does not have a paraphilic disorder, mood disorder, or personality disorder, and that he cannot confirm that Dr. Dudley's behaviour was sexually motivated.

Inattention to Clinical Boundaries

- d. Dr. Mela commented that initially, Dr. Dudley showed a lack of knowledge of the boundaries of appropriate professional communication. However, "changes were glaring" after attending the boundaries course.

Boundary Course

- e. Dr. Dudley has expressed, and Dr. Mela's report confirms, that the boundaries course that Dr. Dudley undertook was beneficial in several ways.
- f. Dr. Mela confirmed that Dr. Dudley is now more likely to empathize with his patients than before his boundaries course.

Future Safe Practice

- g. Dr. Mela noted that: Dr. Dudley's agreeable stance, readiness to change, insight and enhanced empathy support a low risk of future unprofessional conduct. The plans he put forward were feasible and realistic for the purposes of enhancing professional conduct. His depth of understanding and the effect of the boundaries course are a reassurance for safe practice. His risk to future and current patients is low and can be even lower with the suggested interventions below.
- h. Dr. Dudley is committed to acting on the recommendations of Dr. Mela. He appreciates his errors in judgment and his prior lack of knowledge regarding professional boundaries and has already begun taking steps to ensure his behaviour is not repeated

Dr. Dudley, through Counsel, suggests that a suspension is not warranted and that the following penalty would be appropriate

- 1) That Dr. Dudley be reprimanded;
- 2) That Dr. Dudley pay a fine;
- 3) That Dr. Dudley continue with the Undertaking he is currently working under for a period of one year;
- 4) That Dr. Dudley enter an additional Undertaking to comply with the recommendations in Dr. Mela's expert report including:
 - a) To make arrangements with a mentor, approved by the Registrar, to periodically review the risk of boundary violations, the stresses of practices, and the importance of maintaining the integrity of professional boundaries with patients;
 - b) to remain connected with the PHP and undergo a Substance Abuse Subtle Screening Inventory if the PHP sees fit;
 - c) To seek counselling from a counsellor with expertise assisting adults with ADHD and in trauma and grief intervention;
 - d) To complete a review of the boundaries course with the PHP and his Mentor;
 - e) To complete the remaining two victim empathy statements (the first two of which had been part of the assessment by Dr. Mela) and review them with the PHP; and
 - f) To undergo another boundaries course before he begins to practice without a chaperone.
- 5) That Dr. Dudley pay the College's costs.

RELEVANT LEGISLATION AND CASE LAW

Counsel for Dr. Dudley presented arguments pertinent to penalty based on the principles laid down in *Camgoz v College of Physicians and Surgeons (Saskatchewan)* (1993) 114 Sask R 161 (QB).

- 5) In determining whether, and to what extent, to penalize a physician, Council usually considers some or all of the 11 factors identified by Mr. Justice Grotsky in *Camgoz v College of Physicians and Surgeons (Saskatchewan)* (1993) 114 Sask R 161 (QB) at paragraph 49. These 11 factors include:
 - 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; 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.
- i) 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;
- j) 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; and
- k) Ensuring that the penalty imposed is not disparate with penalties previously imposed in this jurisdiction, particularly, and in other jurisdictions in general, for the same, or similar acts of misconduct.

Counsel for Dr. Dudley argues that his misconduct was not as serious as behaviours cited by Counsel for the College. No specific case law was presented in direct rebuttal for cases presented by Counsel for the College. It was argued that current reputational damage due to media attention has provided for deterrence. It was felt that a fine and costs would further general deterrence. There was argument that the imposition of a suspension would in fact not serve the public interest in this underserved community.

It was argued Dr. Mela's report could be interpreted to suggest that the misconduct in question arose from a lack of understanding or attention to common boundaries and lacked specific intent. This was used to justify the argument that no specific deterrence is required in this case.

REASONS FOR DECISION

Gravity of Complaint

In the assessment of the gravity of the misconduct and the effects on the victims, the Council considered the report from Dr. Mela which stated:

The patients' accounts were characterized by upset, surprise, feeling violated and the need to protect the clinical space. They were all females who conveyed a betrayal of trust and considered the physician's behavior as less than acceptable. It is also demonstrated by the comments in the complaints from the patients:

[The patient's statement has been redacted from the publicly-available reasons as it contains personal information about the patient]

The mother of the young patient commented about the effect on her daughter and herself:

[The patient's statement has been redacted from the publicly-available reasons as it contains personal information about the patient]

The third patient commented:

[The patient's statement has been redacted from the publicly-available reasons as it contains personal information about the patient]

The fourth patient stated:

[The patient's statement has been redacted from the publicly-available reasons as it contains personal information about the patient]

The gravity of the actions of Dr. Dudley against his victims was given considerable weight in the decision of the Council. Dr. Dudley does not contest the accusations and as such, the effects of those actions must be taken at face value. To so seriously injure the trust of patients, particularly minors is inexcusable. Despite Dr. Dudley's new found understanding of the boundaries he breached, Council did in fact consider specific deterrence to be an essential component of penalty. Therefore the argument of Counsel for Dr. Dudley that specific deterrence was not required, was not accepted by Council.

Council struggled with the interpretation of Dr. Mela's report brought forward by Counsel for Dr. Dudley. It is clear that Dr. Mela did not identify a diagnosable condition that would account for the seemingly bizarre nature and sudden onset of Dr. Dudley's misconducts. It was considerably less clear to Council that the misconduct did not have an underlying intent of sexual gratification. Several of Dr. Mela's statements were brought forward in the discussion;

An outside observer focusing on the four complaints could deduce a sexual motivation on the basis of Dr. Dudley's seeming preoccupation with sexual themes in a conversation that had little to do with a sexual complaint.

In the absence of mood disorder, personality disorder, or paraphilic disorder/sexual deviance (the bona fide psychiatric conditions that could account for a sexual motive),

I am not able to confirm one way or the other

if Dr. Dudley's behavior was sexually motivated (emphasis added).

It was accepted by the Council that Dr. Mela preferred to rely on contributing psychological factors including inadvertence and inattention to clinical boundaries, cultural maladjustment, professional uncertainty, poor emotional regulation, and deficiency in empathy for patients and stress management problems. It remains clear that Dr. Mela was unable to definitively confirm the absence of a sexual motivation.

A substantial portion of Dr. Dudley's verbal presentation both directly and via Counsel was spent on the argument that Dr. Dudley's misconducts were, in part, attributable to ADHD. This was in some way related to a significant cardiac event suffered by Dr. Dudley, while living in South Africa. Dr. Dudley demonstrated great emotion with respect to this event, and relied quite heavily on it as a contributing factor to the development of his ADHD, which in turn predisposed him to his misconducts. This emphasis was a source of some confusion to

Council, as Dr. Mela's report does not comment on this as a significant causative factor with respect to Dr. Dudley's diagnosis of ADHD. As a result, it did not add much weight to the arguments of Counsel for Dr. Dudley.

Arguments brought forth by Counsel for both parties comment on Dr. Mela's enthusiasm for the response of Dr. Dudley to a boundaries course, and his encouragement for another to be taken prior to reintroduction to practise. Council recognizes the efforts Dr. Dudley has made toward rehabilitation and mitigation of future risk to the public. This however, was not found to be compelling reason to decrease penalty, as it was considered that effort to improve and prevent risk, while laudable, does nothing to undo the damage already done to his victims.

In light of these factors, the Council determined that a fine was not appropriate, and that a suspension was considered necessary as this represents a more significant penalty. The Council considered the case law presented by Counsel for The College to be appropriate. The cases presented represent a spectrum of severity. The Council considered arguments brought forward by Counsel for Dr. Dudley, but noted an absence of specific arguments rebutting the cases presented by the College. In the case law presented, significant boundary breaches were often managed with suspension as a component of penalty. Council was swayed by the case law presented.

The Council was impressed by the veracity of Dr. Dudley's apology. It was the opinion of Council that Dr. Dudley does recognize the degree of his misconduct and is genuine in his desire to seek a means of ensuring that he does not reoffend. Dr. Dudley demonstrates an understanding of the impact of his actions on his victims. Given the statements of Dr. Dudley and Dr. Mela, the Council considers it highly unlikely that he will reoffend.

DECISION

On 21 January 2017, the Council deliberated and imposed the following penalty on Dr. Dudley:

The Council of the College of Physicians and Surgeons imposes the following penalty on Dr. Alistair Dudley pursuant to *The Medical Profession Act, 1981*:

- 1) Pursuant to Section 54(1)(b) of The Medical Professional Act, 1981, the Council hereby reprimands Dr. Dudley. The format of said reprimand to be written by the President;
- 2) Pursuant to Section 54(1)(b) of The Medical Profession Act, 1981, the Council hereby suspends Dr. Dudley for a period of 4 months commencing on a date to be chosen by Dr. Dudley but not later than February 21, 2017. If Dr. Dudley does not choose an earlier date than February 21, 2017 his suspension will begin at 12:01 a.m. on February 21, 2017;
- 3) Pursuant to Section 54(1)(b) of The Medical Profession Act, 1981, the suspension will remain in effect until Dr. Dudley provides an undertaking to the College, in a form acceptable to the Registrar, that contains the following:
 - a) Dr. Dudley's agreement that he will establish a relationship with a mentor, who is approved by the Registrar, and will meet with the mentor on a regular basis, not less than once per month, to review the concept of "slippery slopes" in boundary

violations, stresses of practice, and maintaining the integrity of professional boundaries with patients. The undertaking will contain a statement that the Registrar may authorize Dr. Dudley to meet less frequently than monthly and may release Dr. Dudley from the requirement that he maintain a relationship with a mentor;

b) Dr. Dudley's agreement that he will immediately advise the College if his relationship with the mentor ends, or if he is unable to meet the requirements of paragraph (a);

c) Dr. Dudley's agreement that he irrevocably authorizes a mentor to provide reports to the College on such frequency as the Registrar may require;

d) Dr. Dudley's agreement that he will be responsible for all costs associated with the mentor;

e) Dr. Dudley's agreement that he will actively participate with the Physician Health Program of the Saskatchewan Medical Association and his agreement that he will follow the recommendations of the Physician Health Program;

f) Dr. Dudley's agreement that if the Physician Health Program recommends an ADHD coach or couples counselling, or counselling in relation to trauma intervention, he will follow those recommendations;

g) Dr. Dudley's agreement that he will cooperate with the Physician Health Program in completing an assessment to determine whether, in the opinion of the program, a Substance Abuse Subtle Screening Inventory (SASSI) is necessary, and to assess whether Dr. Dudley should be subject to monitoring in relation to his use of alcohol;

h) Dr. Dudley's agreement that if the Physician Health Program recommends monitoring in relation to Dr. Dudley's use of alcohol, he will comply with that monitoring;

i) Dr. Dudley's agreement that he will meet with the Physician Health Program, and any additional individuals which the Executive Director of the Physician Health Program may recommend, to complete a review of the boundaries course which he has attended;

j) Dr. Dudley's agreement that he will complete victim empathy statements with respect to the two individuals referenced in the charges of unprofessional conduct with respect to whom he has not yet completed victim empathy statements;

k) Dr. Dudley's agreement he will not have any in-person professional encounters with female patients in his office practice, except in the presence of a female chaperone;

l) Dr. Dudley's agreement that the chaperone shall initial each patient chart for which she is present;

m) Dr. Dudley's agreement that he will maintain a second written record kept chronologically for each patient. The record will be kept by him and initialled by the chaperone who was present during the encounter. He will ensure that contemporaneously with any encounter or interaction with any female patient in his office, the chaperone will initial the written record in addition to the patient chart;

n) Dr. Dudley's agreement that he agrees to unannounced inspections by the College to monitor his compliance with the undertaking;

o) Dr. Dudley's agreement that he will post a clearly visible sign in his waiting room and each of his examination rooms in his clinic that states that he will not see female patients without the presence of a female chaperone;

p) Dr. Dudley's agreement that the College can provide a copy of the undertaking to the physicians with whom he currently works at the Idylwyld Medical Centre and the physicians at any other clinic where he works;

q) A statement that the terms of the undertaking will remain in effect while Dr.

Dudley remains licensed in Saskatchewan unless the Council agrees to an amendment to or a termination of the undertaking.

4) Pursuant to section 54(1)(i), the Council directs Dr. Dudley to pay the costs of and incidental to the investigation and hearing in the amount of \$1,500.00. Such payment shall be made in full by February 1, 2017.

5) Pursuant to section 54(2), if Dr. Dudley should fail to pay the costs as required by paragraph 4, Dr. Dudley's licence shall be suspended until the costs are paid in full.

6) The Council reserves to itself the right to amend any of the terms of this penalty decision, upon application by Dr. Dudley. Without limiting the authority of the Council, the Council may release Dr. Dudley from any of the terms of the undertaking required by paragraph 3, may authorize Dr. Dudley to enter into an undertaking on different terms than set out in paragraph 3, or may extend the time for Dr. Dudley to pay the costs required by paragraph 4.



*College of
Physicians and Surgeons
of Saskatchewan*

101 – 2174 Airport Drive
SASKATOON SK S7L 6M6

Business: (306) 244-7355
Fax: General (306) 244-0090
Fax: Dr. K. Shaw (306) 244-2600
Email: cpssinfo@cpss.sk.ca
www.cps.sk.ca

REGISTRAR
KAREN SHAW, M.D.

5 April, 2017

Dr. Alistair Dudley

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

Dear Dr. Dudley

On 21 January, 2017 the Council of the College of Physicians and Surgeons of Saskatchewan accepted your admission of guilt to charges of misconduct. Following deliberation, penalty was determined. One component of that penalty was an official reprimand by the Council. Given the gravity of your offenses and the impact of your actions on your victims, it was the will of Council that I personally compose the reprimand.

You, Dr. Alistair Dudley, having been found guilty of professional misconduct while practising medicine in the province of Saskatchewan are hereby reprimanded by the Council of the College of Physicians and Surgeons of Saskatchewan.

Your actions have had a grave impact on the emotional health of the patients who have been deeply affected by your behaviour. You have brought disrepute on yourself and onto the profession of medicine. Your actions have called into question the ability of patients to trust their physician which is essential for effective delivery of health care. Additionally, Council wishes to stress their abhorrence of the fact that your actions impacted on the wellbeing of a minor. The words of the distraught mother of one of your deeply affected patients reflect the harm you have caused.

Continued.....

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

The Council of the College of Physicians and Surgeons of Saskatchewan recognizes your acceptance of responsibility for your actions and the steps you have taken, and must continue to take, to avoid such actions from occurring again. Unfortunately, in no way does this diminish the suffering you have caused to your victims, their families, and indeed your own family and colleagues.

Take these words of reprimand to heart. If, and when, you elect to return to the practice of medicine, the Council hopes that you will reflect on your actions and the harm they have caused.

Your actions cannot be undone. Ensure that your remaining career is spent in the tireless pursuit of making amends for your past actions by ensuring your exemplary actions with future patients whose care is entrusted to you.

Sincerely,

