



EXECUTIVE SUMMARY
of the
21 & 22 NOVEMBER, 2014 COUNCIL MEETING
COLLEGE OF PHYSICIANS AND SURGEONS OF SASKATCHEWAN

The Council of the College of Physicians and Surgeons of Saskatchewan operates under an explicit set of governance policies. It strives to make its work as transparent as possible to the medical profession and to the general public.

Those portions of Council's deliberations that are not confidential are open to observation by any person subject to space availability in the meeting room.

At the conclusion of each Council meeting an Executive Summary of the meeting is widely distributed to the District Medical Associations, related organizations and the public media. This Executive Summary provides a brief overview of issues discussed, decisions made, and/or actions taken by the Council. If any person wishes more detailed information about any of the issues which are not subject to confidentiality constraints, these can be obtained by contacting Ms. Sue Robinson, Executive Assistant to the Registrar, at 500, 321A 21st Street East, Saskatoon, Saskatchewan, S7K 0C1, phone (306) 667 4625, Fax (306) 244 2600, or email OfficeOfTheRegistrar@cps.sk.ca.

1. Council received and discussed Monitoring Reports from the Registrar in respect to:
 - (a) The Registrar's advancement of Council's End 6 – Professionally Led Regulation, and
 - (b) The Registrar's compliance with Council's Executive Limitation policies pertaining to:
 - (i) EL - 14 – Development of Policies Governing the Practice of Medicine, and
 - (ii) EL – 15 – Approval of Externally Generated Policies Governing the Practice of Medicine
2. Council conducted a penalty hearing pertaining to Dr. David Campbell pursuant to Section 54 of *The Medical Profession Act, 1981*. Dr. Campbell pled guilty and a joint submission was accepted by Council. Council adopted the following resolution:

The Council of the College of Physicians and Surgeons imposes the following penalties on Dr. David Campbell pursuant to The Medical Profession Act, 1981:

- 1) Pursuant to Section 54(1)(e) of The Medical Profession Act, 1981, Dr. David Campbell is reprimanded;*
- 2) Pursuant to Section 54(1)(i) of The Medical Profession Act, 1981, Dr. David Campbell is required to pay the costs of and incidental to the investigation and hearing in the amount of \$22,158.94, payable forthwith.*

Council accepts the joint submission on penalty put before the Council jointly by Dr. David Campbell and the office of the Registrar. In doing so, the Council recognizes as a relevant factor Dr. Campbell's undertaking to develop a Departmental Policy regarding leaving the operating room, to be based upon the Canadian Society of Anesthesiology Guidelines.

Council also has considered the mitigating factors identified in the presentations to the Council, which include the following:

- 1) Dr. Campbell has no previous history of discipline infractions;*
- 2) Dr. Campbell cooperated with the investigation;*
- 3) The facts of the discipline have become well known among his colleagues in Saskatoon;*
- 4) The patient was not harmed;*
- 5) The investigation and charges has had a significant impact on Dr. Campbell's career and income;*

3. Council conducted a penalty hearing pertaining to Dr. Nigel Painter pursuant to Section 54 of *The Medical Profession Act, 1981*. Dr. Painter pled guilty and a joint submission was accepted by Council. Council adopted the following resolution:

The Council of the College of Physicians and Surgeons imposes the following penalties on Dr. Nigel Painter pursuant to The Medical Profession Act, 1981:

- 1) Pursuant to Section 54(1)(a) of The Medical Profession Act, 1981, the name of Dr. Nigel Painter is struck from the Register of the College of Physicians and Surgeons, effective November 21, 2014.*
- 2) Pursuant to Section 54(1)(a) of The Medical Profession Act, 1981, Dr. Nigel Painter shall not be eligible to have his name restored to the Register until both of the following conditions are met:
 - a) a period of twelve months has elapsed from the effective date of revocation of his licence; and**

b) the Council receives a satisfactory report from a professional person, persons or organization chosen by the Council which attests that Dr. Nigel Painter has undertaken counseling at his expense for sexual abuse, has gained insight into the matter and has achieved a measure of rehabilitation which protects the public from risk of future harm from Dr. Nigel Painter. Such a report may be provided by Dr. Glen Gabbard at the Gabbard Center, Texas, Professional Renewal Center of Lawrence, Kansas, Acumen Assessments of Kansas or Dr. Peter Collins of Toronto, Ontario or such other persons or organizations that are acceptable to the College of Physicians and Surgeons of Saskatchewan.

3) Dr. Nigel Painter may apply to have his name restored any time after condition b) is met, provided that the restoration will take effect only after the expiry of the twelve month period referenced in condition a).

4. Council received an update on the Development of Guidelines or Understanding Related to the Operation of the Physician Health Program.
5. Council adopted a Patient Confidentiality Guideline which will be placed on the College's website and circulated to physicians as a guidance document. A sunset date of five years was applied.
6. Council received a report from the Associate Registrar on draft policies relating to Primary Care and Episodic Care. Council directed that the senior team convene a meeting with the appropriate persons for continuation of the discussion.
7. Council received an update on the guideline relating to the Transfer of Medical Records which had been approved in principle at the September Council meeting. Council was apprised that the SMA Board has provided approval and Council therefore provided final approval for the joint policy SMA/CPSS Transfer of Patient Records. A sunset date of five years was applied.
8. Council reviewed the work to date from the working group on the Regulation of Office Procedures. Council was apprised of the input from physicians practising in this area of practice and considered a possible bylaw amendment. Council directed that a group of interested individuals be brought together to further discuss what should be included in the Regulation of Office Procedures and to consider the role of supervision within the facilities that provide these procedures.
9. Council approved an amendment to Bylaw 26.1 to include flexible sigmoidoscopy as a procedure to which Bylaw 26.1 applies.
10. Council rescinded the following policies:

Exercise Stress Testing, and
Exercise ECG Stress Testing

These policies were considered outdated and these procedures are captured in the non hospital treatment facility Bylaw 26.1.

11. Two guidelines were rescinded:

Radiology Supervision, and
Interpreting of Mammography

These guidelines are considered outdated and these matters are now captured within Bylaw 25.1.

12. Council deferred the discussion with respect to Medical Practice Coverage guideline to the January meeting of Council.
13. Council received a report from the Associate Registrar with respect to the policy for Certifying Illness. This is a joint policy between the SMA and the College and had been approved in principle by the Council of the College in November 2013 pending input from the SMA. The SMA has now provided their support for this policy and Council has adopted the joint policy *The Role of the Physician in Certifying Illness* and has set a five year sunset date.
14. Council deferred further discussion on the policy regarding Conscientious Objection to the January meeting of Council.
15. Council received an update with regard to the policy *Role of Legal Counsel, Investigation of Possible Unprofessional Conduct and Lack of Skill and Knowledge* and re-affirmed that they would like a previous Councilor to complete the review.
16. Council received a verbal update with respect to the development of a policy respecting a physician's duty to inform when a patient discloses an intent to self harm. Council directed the Associate Registrar to prepare a draft document for review by the committee that incorporates the appropriate references to HIPA. The matter will be reviewed at the January meeting of Council.
17. Council received a report from the Director of Registration Services with respect to the outcome of a summative assessment on a specialist and the additional information as directed by Council at the September Council meeting. Council approved a regular licence for Dr. B. Lubega.
18. Council appointed Dr. Werner Oberholzer to the Complaints Resolution Advisory Committee.
19. Council received a report from Ms. Amy McDonald, Accountant and Comptroller for the College with respect to the quarterly finance report.
20. Council amended a charge and conducted a penalty hearing pertaining to Dr. Cornelius Spies pursuant to Section 54 of *The Medical Profession Act, 1981*. The charges to which Dr. Spies admitted state:

The Council of the College of Physicians and Surgeons directs that, pursuant to section 47.6 of The Medical Profession Act, 1981, the Discipline Committee hear the following charges against Dr. Cornelius Spies, namely:

You Dr. Cornelius Spies are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of section 46(o) and/or 46(p) of The Medical Profession Act, 1981 s.s. 1980-81 c. M-10.10 and/or bylaw 7.1(c) and paragraph 31 and/or paragraph 52 of bylaw 7.1(g).

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

- a) On or about the 31st of March, 2013 you sent a text message to a physician.*
- b) The text message sent on or about March 31, 2013 stated "does your wife know you fooling around with a married woman at work? fool around with your own kind!! you are a marked man for the rest of your life. watch your back. it is going to catch up with you before you know it- you are in the wrong crowd. you will never know when or where it will happen- you have been warned- leave town" or used words of similar meaning.*
- c) On or about the 1st of April, 2013 you sent a second text message to the physician.*
- d) The text message sent on or about April 1, 2013 stated "did you find anybody else to harass with your PERVERTED SEXUAL suggestions at work? Your wife and family will appreciate this and the CPSS I am sure."*
- e) You did not identify yourself as the sender of the text messages.*
- f) The text messages could reasonably have been interpreted by the physician as racist.*
- g) The text messages could reasonably have been interpreted by the physician as threatening.*
- h) The text messages could reasonably have been interpreted by the physician's spouse as threatening.*

The penalty imposed by Council was a suspension of two weeks to be served prior to March 31, 2015, a reprimand and costs of \$1,800.00. Dr. Spies had participated in an ethics course since these events and the Registrar was directed to review that course to determine if it was appropriate. If not, Dr. Spies will be required to participate in an ethics course approved by the Registrar.

- 21. Council received a report pertaining to Dr. A. Luning who has signed an undertaking with the Council to provide the Registrar with information that will

assure that an appropriate practice plan has been established which is approved by the Registrar and failing that withdraw from practice.

22. Council received a report from Dr. Tilak Malhotra, Chairperson of the AGM Committee and Council approved in principle that the committee continue to develop the content of the educational day based on the topics discussed.
23. Council received an update on the possible bylaw Delegation of Activities in the Practice of Medicine to Health Professionals. Council had previously approved in principle a bylaw amendment to authorize delegation from physicians to RNs. Council approved the amendment to the regulatory bylaw to facilitate delegation. The bylaw is, as follows:

23.2 Privacy Policy

(a) A duly qualified medical practitioner may delegate to a Registered Nurse the following activities which are the practice of medicine as defined in the Act:

- (i) Services provided by a Registered Nurse while acting as a member of a Registered Nurse Neonatal Intensive Transport Team;*
- (ii) Services provided by a Registered Nurse while acting as a member of a Registered Nurse Pediatric Transport Team;*
- (iii) Services provided by a Registered Nurse while acting as a member of an Air Ambulance Team;*
- (iv) Services provided by a Registered Nurse while acting as a member of a STARS (Shock Trauma Air Rescue) team;*
- (v) The administration of laser radiation for a medical purpose, but only when the physician has first assessed the patient and established a treatment plan for the administration of laser radiation and the physician is present in the same location as the laser therapy is provided;*
- (vi) The injection of agents which have an effect on or elicit a response from living tissue (bioactive agents), but only when the physician has first assessed the patient and established a treatment plan for the injection;*
- (vii) Services when acting as a surgical assistant in an operating room, but only when the registered nurse has been given privileges to act as a surgical assistant by the Board of the Regional Health Authority where the Registered Nurse provides those services;*
- (viii) Services provided by a Registered Nurse when acting as a member of the Saskatchewan Transplant Program.*

(b) Except in the situation of an emergency, prior to delegating the authority for a Registered Nurse to perform an activity the physician must be satisfied that the individual to whom the act will be delegated has the appropriate knowledge, skill and judgment to perform the delegated act. The delegate must be able to carry out the act as competently and safely as the delegating physician.

- (c) *Except in the situation of an emergency, the authority to delegate must be provided in writing to the delegate, and must contain:*
 - (i) *a specific description of the activities which have been delegated;*
 - (ii) *any conditions or restrictions associated with the delegation (only to be exercised after prior consultation with a physician, only to be exercised if a patient has a specific medical condition, any time limitation on the delegated authority, etc.)*
- (d) *A delegation is only valid if the delegate accepts the delegation.*
- (e) *A delegation may be revoked by the delegating physician at any time.*
- (f) *A physician who has delegated an activity shall retain a copy of the document which authorizes the delegation.*
- (g) *A delegation is only valid while the delegating physician is generally available to provide oversight and advice to the delegate. If the physician who has delegated the activity no longer has oversight responsibility for the delegated activity, the delegation is no longer valid.*
- (h) *A physician delegating an activity pursuant to this bylaw must provide the appropriate level of supervision to ensure that the act is performed properly and safely.*

- 24. Council received a report from the Associate Registrar on the status of Bylaw changes. All bylaw amendments previously adopted by Council are now in effect.
- 25. Council received a report from the Associate Registrar on the Discipline Decision Process and the respective roles of the Executive Committee and the Council. It was the general consensus of Council that the current process for dealing with discipline and competency should continue.

Council wished to continue discussion pertaining to the practice of joint submissions and Council will receive additional information on the process used to date. Council will reserve time at the January or March meeting of Council to further the discussions. A document of the current process used will be developed and an outside legal consultant invited to participate in the discussions.

- 26. Council reviewed a matter referred from the Executive Committee with respect to the laying of possible charges against a physician who provided inaccurate information when he advised the College that he had not been the subject of an inquiry by a medical licensing authority or a hospital. Council considered the matter and laid the following charge:

The Council of the College of Physicians and Surgeons directs that, pursuant to section 47.6 of The Medical Profession Act, 1981, the

Discipline Committee hear the following charges against Dr. Tshimanga Willy Kalala, namely:

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

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

a) In approximately September, 2009 you completed a document entitled "Curriculum Vitae for Family Physician Applicants" which you provided to the College of Physicians and Surgeons of Saskatchewan. In that document you answered "NO" to the question "Have you ever been the subject of an enquiry or investigation by a medical licensing authority or hospital".

b) That answer was inaccurate or misleading.

c) In the document which you completed in approximately September, 2009 you answered "NO" to the question "Have you ever been suspended, disqualified, censured, or had any disciplinary action taken against you as a member of any profession?"

d) That answer was inaccurate or misleading.

e) On or about November 29, 2010 you completed a declaration which was provided to the College of Physicians and Surgeons of Saskatchewan and responded with the answer "NO" to the question "Have you ever been the subject of an enquiry or investigation by a medical licensing authority or hospital".

f) That answer was inaccurate or misleading.

g) In the declaration which you completed on or about November 29, 2010 you answered "NO" to the question "Have you ever been suspended, disqualified, censured, or had any disciplinary action taken against you as a member of any profession?"

h) That answer was inaccurate or misleading.

i) On or about December 3, 2010 you completed an application form for licensure with the College of Physicians and Surgeons of Saskatchewan and responded with the answer "NO" to the question "Have you ever been the subject of an enquiry or investigation by a medical licensing authority or hospital".

j) That answer was inaccurate or misleading.

k) In the application form which you completed on or about December 3, 2010 you answered "NO" to the question "Have you ever been suspended, disqualified, censured, or had any disciplinary action taken against you as a member of any profession?"

l) That answer was inaccurate or misleading.

m) On or about October 20, 2011 you completed an application form for licensure with the College of Physicians and Surgeons of Saskatchewan and responded with the answer "NO" to the question "Have you ever been the subject of an enquiry or investigation by a medical licensing authority or hospital".

n) That answer was inaccurate or misleading.

- o) *In the application form which you completed on or about October 20, 2011 you answered “NO” to the question “Have you ever been suspended, disqualified, censured, or had any disciplinary action taken against you as a member of any profession?”*
- p) *That answer was inaccurate or misleading.*

27. Council reviewed a Preliminary Inquiry Report pertaining to Dr. Awad-El-Kariem and laid a charge as follows:

The Council of the College of Physicians and Surgeons directs that, pursuant to section 47.5 of The Medical Profession Act, 1981, the Discipline Committee hear the following charges against Dr. Sawsan Awad-El-Kariem, namely:

You Dr. Sawsan Awad-El-Kariem 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 23.1 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 one or more of the following:

- a) *You failed to maintain records for your patients that met the requirements of bylaw 23.1 of the College bylaws;*
- b) *You failed to maintain patient records in a systematic way;*
- c) *You failed to maintain records which would allow a health care provider to identify a diagnosis or possible diagnosis for your patients;*
- d) *You failed to maintain records which would allow a health care provider to identify a treatment plan for your patients;*
- e) *You maintained thousands of paper documents for patients which were maintained in plastic bags without any organized system.*

28. Council reviewed a Preliminary Inquiry Report pertaining to a physician and determined it did not have the basis in which to proceed with charges.

29. Council reviewed a Preliminary Inquiry Report pertaining to Dr. Yagan Pillay and laid a charge as follows:

The Council of the College of Physicians and Surgeons directs that, pursuant to section 47.5 of The Medical Profession Act, 1981, the Discipline Committee hear the following charge against Dr. Yagan Pillay, namely:

You Dr. Yagan Pillay 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:

- 1) A female person hereinafter referred to in this charge as Patient Number 1 was your patient;*
- 2) On or about the 29th day of March, 2012, Patient Number 1 attended upon you in relation her stomach pain;*
- 3) Patient Number 1 advised you that the lights in the room were bothering her eyes as she had a migraine headache;*
- 4) You massaged parts of Patient Number 1's body while she was lying on an examination table;*
- 5) You massaged Patient Number 1's lower back area while she was standing upright;*
- 6) While you were sitting on the examination table, you pulled Patient Number 1 towards you and massaged her;*
- 7) You did not ask permission of Patient Number 1 to perform a massage;*
- 8) You did not provide an explanation to Patient Number 1 for performing the massage;*
- 9) You pulled Patient number 1 into a hug with you;*
- 10) You asked Patient Number 1 if you could kiss her.*

30. Council received and considered a report from the Associate Registrar and laid a charge against Dr. Jordan Velestuk, as follows:

The Council of the College of Physicians and Surgeons directs that, pursuant to section 47.6 of The Medical Profession Act, 1981, the Discipline Committee hear the following charge against Dr. Jordan Velestuk, namely:

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

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

- a) On or about the 18th day of November, 2012, you removed a quantity of Ketamine from the Pasqua Hospital;*
- b) The Ketamine removed from the Pasqua hospital was removed for the purpose of personally using the Ketamine;*
- c) You were charged with theft contrary to the Criminal Code arising from your removal of the Ketamine from the Pasqua hospital;*
- d) You entered into an alternative measures program to resolve the criminal charge of theft;*
- e) You admitted the theft by entering into the alternative measures program.*

31. Council received a request from Dr. Evan Franko to be relieved of two remaining restrictions on his licence namely:

1. Prohibition against prescribing any opiates, and
2. Prohibition against practising as an emergency room physician

Council considered the presentation from Dr. Franko and the supporting documentation and relieved him of the two restrictions. The physician remains prohibited from working as a critical care associate and must remain involved with the Physician Health Program.

32. Council received a report from the Associate Registrar updating Council on the activities of legal counsel of the College of Physicians and Surgeons on outstanding discipline investigations.
33. Council received a report on the building update and provided approval for the suggested approach on lease agreements and agreement with the Saskatchewan Medical Association.