

**In the Matter of *The Medical Professional Act, 1981*,
S.S. 1980-81, c. M-10.1, and**

**DR. EL-FELLANI MOHAMMED,
Medical Practitioner of Saskatoon, Saskatchewan**

**HEARING OF THE DISCIPLINARY HEARING COMMITTEE
OF THE COLLEGE OF PHYSICIANS AND SURGEONS
OF SASKATCHEWAN**

**Saskatoon, Saskatchewan
June 5, 2023**

DECISION

Before: Alma Wiebe, K.C. (Chair)
Dr. Omopelola (Lola) Sotomi
Dr. James Stempien

Appearances: Evan Thompson and Sheila Torrance,
for the College of Physicians and Surgeons
Nicholas Cann, K.C. for Dr. El-Fellani Mohammed

I. INTRODUCTION

1. Counsel and the Panel were present in person. Dr. Mohammed appeared by video.
2. The parties, by agreement, placed all of the evidence before the Discipline Hearing Committee by way of uncontested Affidavits tendered for the truth of their contents. Dr. Mohammed, while not entering guilty pleas, agreed not to contest the evidence put forward by the Registrar's office in proof of his guilt. By agreement, no contradictory evidence was tendered by Dr. Mohammed and he waived his right to cross-examine the affiants on their evidence. Dr. Mohammed presented no argument at the hearing.

II. THE CHARGES

3. Dr. Mohammed was charged by the Council of the College of Physicians and Surgeons of Saskatchewan (the College) as follows:

1. You, Dr. El-Fellani Mohammed 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-10.1 and/or paragraphs 1 and/or 2 and/or 13 and/or 21 and/or 22 of The Code of Ethics contained in bylaw 7.1; and/or bylaw 8.1(b)(ix); and/or bylaw 23.1(a)(ii)2) 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 referred to in this charge as Patient #1 was your patient.
- 2) You saw Patient #1 on a number of occasions between 2013 and 2014.
- 3) During several appointments in 2014, you conducted stethoscope examinations on Patient #1 by putting your hand and stethoscope down the front of her shirt without warning, explanation or request for consent.
- 4) The results of these stethoscope examinations were not consistently charted in Patient #1's medical record.
- 5) On one of these occasions, you undid the top button of Patient #1's blouse without warning, explanation or request for consent.
- 6) During one appointment with Patient #1, you asked her a personal question that she felt was inappropriate and not relevant to the examination.

2. You, Dr. El-Fellanni Mohammed 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-10.1 and/or paragraphs 1 and/or 2 and/or 13 and/or 21 and/or 22 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:

- 1) A female person referred to in this charge as Patient #2 was your patient. At the time of her appointments with you in 2011, Patient #2 was a minor.
- 2) During an appointment with Patient #2 in or about September of 2011, you conducted a stethoscope examination on her by putting your hand and stethoscope down the front of her shirt without warning, explanation or request for consent, involving contact with her breast.

3) During the same appointment, you hugged Patient #2.

3. You, Dr. El-Fellanni Mohammed 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-10.1 and/or paragraphs 1 and/or 2 and/or 13 and/or 21 and/or 22 of the Code of Ethics contained in bylaw 7.1 and/or bylaw 8.1(b)(ix) and/or bylaw 23.1(a)(ii)2 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 referred to in this charge as Patient #3 was your patient.
- 2) You saw Patient #3 on a number of occasions between 2011 and 2016.
- 3) During a number of those appointments, you conducted stethoscope examinations on Patient #3 by putting your hand and stethoscope down the front of her shirt or up from the bottom of her shirt without warning, explanation or request for consent, involving contact with her breasts.
- 4) The results of the stethoscope examinations were not consistently charged in Patient #3's medical record.

4. You, Dr. El-Fellanni Mohammed 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-10.1 and/or paragraphs 1 and/or 2 and/or 13 and/or 21 and/or 22 of the Code of Ethics contained in bylaw 7.1 and/or bylaw 8.1(b)(ix) and/or bylaw 23.1(a)(ii)2 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 referred to in this charge as Patient #4 was your patient.
- 2) You saw Patient #4 on a number of occasions between 2007 and 2018. During a number of those years, Patient #4 was a minor.
- 3) During a number of appointments between 2007 and 2018, you conducted stethoscope examinations on Patient #4 by putting your hand and stethoscope down the front of her shirt or up from the bottom of her shirt without warning, explanation or request for consent, involving contact with her breasts.
- 4) The results of the stethoscope examination were not consistently charted in Patient #4's medical record.
- 5) During several appointments between 2007 and 2010, you took photographs of Patient #4 in the presence of her mother without providing an appropriate explanation of the purpose of those photographs, and without obtaining written consent.
- 6) Your medical records for Patient #4 did not contain the photographs, any reference to the photographs being taken, or any reference to a consent discussion relating to the photographs.

5. You, Dr. El-Fellanni Mohammed 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-10.1 and/or paragraphs 1 and/or 2 and/or 13 and/or 21 and/or 22 of the Code of Ethics contained in bylaw 7.1 and/or bylaw 8.1(b)(ix) and/or bylaw 23.1(a)(ii)2 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 referred to in this charge as Patient #5 was your patient.
- 2) You saw Patient #5 on a number of occasions between 2013 and 2014.
- 3) During an appointment in late 2013 or 2013, you conducted stethoscope examinations on Patient #5 by putting your hand and stethoscope down the front of

her shirt without warning, explanation or request for consent, involving contact with her breast.

- 4) The results of the stethoscope examinations were not consistently charged in Patient #5's medical record.
- 5) During several appointments with Patient #5, you made comments to her and asked her personal questions that she felt were inappropriate and not relevant to the examinations on those occasions.

6. You, Dr. El-Fellanni Mohammed 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-10.1 and/or paragraphs 1 and/or 2 and/or 13 and/or 21 and/or 22 of the Code of Ethics contained in bylaw 7.1 and/or bylaw 8.1(b)(ix) and/or bylaw 23.1(a)(ii)2 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 referred to in this charge as Patient #6 was your patient.
- 2) You saw Patient #6 on a number of occasions between 2007 and 2014.
- 3) During one appointment in 2014, you conducted stethoscope examinations on Patient #6 by putting your hand and stethoscope down the front of her shirt without warning, explanation or request for consent, involving contact with her breasts.
- 4) The results of the stethoscope examinations were not consistently charged in Patient #6's medical record.
- 5) During the same appointment, you made comments to Patient #6 that she felt were inappropriate and not relevant to the examination.
- 6) During the same appointment, you stood in the doorway of the examination room, leaving Patient #6 feeling that she had to brush against you in order to leave the room.

7. You, Dr. El-Fellanni Mohammed 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-10.1 and/or bylaw 7.1(c) and/or bylaw 7.1(g), paragraphs 1 and/or 2 and/or 13 and/or bylaw 8.1(b)(ix) and/or bylaw 23.1(a)(ii)2 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 patient hereinafter referred to in this charge as Patient Number 1 you're your patient.
- 2) Patient Number 1 attended on you on or about March 14, 2007.
- 3) On or about March 14, 2007 you advised Patient Number 1 that you needed to conduct a breast examination.
- 4) There was nothing in the medical records that supported the clinical indication for a breast examination of Patient Number 1 on that date.
- 5) You did not offer Patient Number 1 the option of having someone else in the examination room when you conducted the breast examination.
- 6) You remained in the examination room while Patient Number 1 removed her shirt and bra.
- 7) Patient Number 1 was not provided with a sheet, gown or other covering.
- 8) You performed the breast examination in a manner that was not consistent with the standard of practice of the profession.
- 9) You failed to record the breast examination in Patient Number 1's medical records.

III. LEGISLATION/BYLAWS

4. The relevant legislation and bylaws of the College of Physicians and Surgeons of Saskatchewan read as follows:

Medical Profession Act, 1981, SS 1980-81, c M-10.1

Charges

46 Without restricting the generality of “unbecoming, improper, unprofessional or discreditable conduct”, a person whose name is entered on a register is guilty of unbecoming, improper, unprofessional or discreditable conduct, if he or she:

(o) does or fails to do any act or thing where the discipline hearing committee considers that action or failure to be unbecoming, improper, unprofessional or discreditable;

(p) does or fails to do any act or thing where the council has, by bylaw, defined that act or failure to be unbecoming, improper, unprofessional or discreditable.

5. Section 6(2)(m) of *The Medical Professional Act* authorizes Council to enact bylaws that define professional misconduct, the relevant provisions of which are as follows:

8.1 Bylaws Defining Unbecoming, Improper, Unprofessional or Discreditable Conduct

(a) In this section:

(i) “standard of practice of the profession” means the usually and generally accepted standards of practice expected in the branches of medicine in which the physician is practicing.

(b) The following acts or failures are defined to be unbecoming, improper, unprofessional or discreditable conduct for the purpose of Section 46(p) of the Act. The enumeration of this conduct does not limit the ability of Discipline Hearing Committees to determine that conduct of a physician is unbecoming, improper, unprofessional or discreditable pursuant to Section 46(o):

(ix) Failing to maintain the standard of practice of the profession.

Onus of Proof

6. The onus of proof of each of the charges in on the College on a balance of probabilities. The task of the Committee is to determine whether the allegations are proven on a balance of probabilities and, if so, whether the proven conduct constitutes conduct unbecoming, improper, unprofessional or discreditable including failure to maintain the standard of practice of the profession as set out in bylaw 8.1 above.

IV. EVIDENCE

7. The uncontradicted Affidavit evidence admitted by consent of counsel at the hearing is summarized as follows:

- 1) Charge #1/Patient #1 – Patient #1 was diagnosed with Addison’s Disease in November 2013 and saw Dr. Mohammed as her endocrinologist on more than one occasion in 2014. During office visits Dr. Mohammed stood in front of the chair she was seated on and placed his hand and stethoscope down the front of her shirt below her left breast without warning or request for permission. On one occasion he undid the top button of her blouse without asking her permission or telling her what he was doing. In November 2014 during a consultation in which Patient #1 asked Dr. Mohammed about medication to address her low sex drive, Dr. Mohammed asked “how sex was with men other than my husband”.
- 2) Charge #2/Patient #2 – Patient #2, age 13, attended on Dr. Mohammed in September 2011 regarding hypothyroidism. Dr. Mohammed placed his hand and stethoscope under her shirt without warning, explanation or consent. After the examination Dr. Mohammed gave her a side hug which she returned. He slid his left hand up the back of her shirt and squeezed her back in the area around her bra band. She tried stepping aside but he continued the hug.
- 3) Charge #3/Patient #3 – Patient #3 stated that she saw Dr. Mohammed in 2011. On two appointments he placed his palm on her left breast while he appeared to listen to her heart with the stethoscope over top of her shirt while he stood in front of the chair she was seated on. During following appointments he would, without warning, explanation or request for consent, either place his hand and stethoscope down the front of her shirt or up from the bottom of her shirt placing his palm and three digits around her breast with his hand directly on her bra and the stethoscope just left of centre and above her breast. The results of the stethoscope examination were not charted in Patient #3’s medical record.
- 4) Charge #4/Patient #4 – Patient #4 saw Dr. Mohammed in 2007 when she was 12 years old and diagnosed with Cushing’s Disease. She attended on him until 2018. At appointments he stood in front of the chair she was seated on, held the stethoscope between two fingers and put it down her shirt or up her shirt with his whole hand. The stethoscope was placed on her breast. Dr. Mohammed took photos of her with her mother’s oral consent. These photographs were not placed on her medical file.

- 5) Charge #5/Patient #5 – Patient #5 attended on Dr. Mohammed in 2013 with her partner, a paramedic. During an appointment in December 2013 Dr. Mohammed asked where her partner was and she told him they had broken up. He asked if she had plans for New Year's. When she said no she was staying at home he asked if she would be alone. When she said yes he asked if she was allowed company. He then asked if he could listen to her “breast” and then corrected himself to say “chest”. He put his stethoscope down her shirt and onto her right breast without warning or explanation or permission. She gave him a questioning look and he moved the stethoscope. In spring 2014 Dr. Mohammed asked her if she had found a job. When she said no he asked if she was “willing to do anything” for a job. She asked what he meant and he said “Anything?”. The results of the stethoscope examination were not charted in Patient #5's medical record.
- 6) Charge #6/Patient #6 – Patient #6 attended on Dr. Mohammed in 2014 or 2015. During this appointment he told her he was going to check her heart and asked her to remove her sweater. He then placed his hand down the front of her tank top and used his thumb and pinkie finger to separate her breasts to place the stethoscope between them. He did this without warning, explanation or request for her consent. He saw her engagement ring and asked her if she was married. She responded that she was (although she was engaged but not married). He then said something along the lines of “very pretty, you're a very pretty girl, he's a lucky man”. As she left he stood in the doorway so that she had to brush up against him with her chest in order to leave the room. The results of the stethoscope examination were not charted in Patient #6's medical record.
- 7) The 2019 Charge/Patient ■ – Patient ■ attended on Dr. Mohammed in approximately 2007 after months of undiagnosed illness. With the patient's consent Dr. Mohammed conducted a breast examination. Dr. Mohammed did not leave the room while the patient disrobed. She was naked from the waist up without a cover. No one else was in the room and the patient was not asked whether she wanted anyone else in the room for the exam. Dr. Mohammed examined both breasts at the same time. The breast exam was not recorded in Patient ■'s medical records.

Expert Evidence - Dr. T. McNab, Clinical Professor of Endocrinology and Metabolism at the University of Alberta

8. Dr. McNab provided the following opinion evidence:
- 1) Patient #1: Chest auscultation was not indicated here. Furthermore, the examination described would not meet the standard of practice of an endocrinologist assessing a patient with Addison's Disease. In addition, the patient's description highlights a failure to communicate with the patient about the need to unbutton clothing or ask permission to auscultate. The patient was not afforded the opportunity to make an informed decision or ask questions about the necessity of the examination.
 - 2) Patient #2: Chest auscultation was not required in this case. Dr. Mohammed's assessment did not meet the standard of practice of an endocrinologist caring for a pediatric patient.
 - 3) Patient #3: Cardiac auscultation is appropriate from time to time as a standard part of the follow-up assessment of a patient with diabetes. Patient #3 had Type 1 diabetes and hypothyroidism. The described examination would yield very little information and would not meet the standard of practice of an endocrinologist assessing a patient with Type 1 diabetes and hypothyroidism.
 - 4) Patient #4: The description of the examination would not meet the standard of practice for an endocrinologist and there is no clear indication for regular chest examination/auscultation. If photographs were necessary e.g. for the publication of a case report or book chapter, it would be best practice to document the consent and nature of the photographs in writing. Outside of this it would be inappropriate for the photographs to reside outside of the medical chart.
 - 5) Patient #5: The described examination does not meet the standard of practice for an endocrinologist assessing a patient with primary hyperparathyroidism. If the diagnosis was unknown at that time, the examination as described would be incomplete and would not meet the standard of practice for an endocrinologist.
 - 6) Patient #6: There is no clear indication for cardiac/chest auscultation in this case. The examination does not meet the standard of practice for an endocrinologist following a patient with hypothyroidism.

- 7) Patient ■■■: Patients should be asked for permission to undergo breast examination with an explanation for why the examination is indicated. They should be offered a chaperone to be present as well. The discussion about the examination and consent should be conducted before the patient is asked to undress. The patient should be properly draped/covered clothed during the discussion. Patients should be offered a gown/sheet to cover with and permitted to change in privacy. All patients should be provided with a covering and should be covered as much as possible during the examination, only exposing body areas briefly when necessary. Pertinent positives and negatives of the examination should be recorded. There was no clinical indication for conducting a breast exam.

V. FINDINGS

9. As stated earlier the evidence grounding the allegations of unprofessional conduct is uncontested. We accept the facts as stated in the Affidavits of the complainants as proven.

10. The question to be answered by this Committee is whether these facts establish that Dr. Mohammed failed to maintain the standard of practice of the profession and/or that his conduct was otherwise unbecoming, improper, unprofessional or discreditable.

11. **Charge #1/Patient #1:** We accept Dr. McNab's opinion that chest auscultation was not indicated in this case and that the examination, described, would not meet the standard of practice of an endocrinologist assessing a patient with Addison's Disease. In the result, we find Dr. Mohammed failed to maintain the standard of practice of the profession contrary to Bylaw 8.1(b)(ix). Furthermore, the manner in which the examination was conducted and Dr. Mohammed's failure to record the examination in Patient #1's medical record failed to meet the standard of practice of the profession and therefore constitute unprofessional conduct under Section 46(p) of *The Medical Profession Act* and Bylaw 8.1(b)(ix).

12. Dr. Mohammed's question of the patient about how sex was with men other than her husband was, in our view, highly inappropriate and constitutes conduct unbecoming, improper and unprofessional within the meaning of Section 46(o) of *the Medical Profession Act*.

13. **Charge #2/Patient #2:** We accept the opinion of Dr. McNab that the assessment in this case did not meet the standards of practice of an endocrinologist caring for a pediatric patient. Further,

the manner in which the stethoscope examination was conducted failed to meet the standard of practice of the profession as outlined by Dr. McNab. We find Dr. Mohammed guilty of unprofessional conduct pursuant to Section 46(p) of *The Medical Profession Act* and Bylaw 8.1(b)(ix).

14. **Charge #3/Patient #3:** We accept Dr. McNab's opinion that the described examination in this case did not meet the standard of practice for an endocrinologist assessing a patient with Type 1 diabetes and hypothyroidism. Further, the manner in which the examinations were conducted fell short of the usual and generally accepted standards of practice expected of a physician. Accordingly, we find Dr. Mohammed guilty of unprofessional conduct pursuant to Section 46(p) of *The Medical Profession Act* and Bylaw 8.1(b)(ix).

15. **Charge #4/Patient #4:** We accept Dr. McNab's opinion that the description by the patient of the stethoscope examinations would not meet the standard of practice for an endocrinologist and there was no clear indication for regular chest examinations/auscultation. Further, these examinations were not consistently charted in Patient #4's medical record. We find Dr. Mohammed did not meet the standard of practice of the profession for these reasons and is guilty of unprofessional conduct pursuant to Section 46(p) of *The Medical Profession Act* and Bylaw 8.1(b)(ix).

16. **Charge #5/Patient #5:** We accept Dr. McNab's opinion that the stethoscope examination conducted by Dr. Mohammed does not meet the standard of practice for an endocrinologist assessing a patient with primary hyperparathyroidism. The manner in which the examination was conducted as well as Dr. Mohammed's failure to chart the examination fall below the standard of practice of the profession and constitute unprofessional conduct pursuant to Section 46(p) of *The Medical Profession Act* and Bylaw 8.1(b)(ix).

17. We find also that Dr. Mohammed's questions of Patient #5 about whether she would be alone on New Year's Eve and if she was allowed company verge on inappropriate but in the absence of context we cannot conclude that these questions or his questions on another occasion about the patient finding a job constitutes unbecoming, improper, unprofessional or discreditable conduct within the meaning of Section 46(o) of *the Medical Profession Act*.

18. **Charge #6/Patient #6:** We accept Dr. McNab's opinion that there was no clear indication for cardiac/chest auscultation in this case and that the examinations did not meet the standards of practice of an endocrinologist following a patient with hypothyroidism. In the result, we find Dr.

Mohammed failed to meet the standard of practice of the profession under Section 46(p) of *the Medical Profession Act* and Bylaw 8.1(b)(ix).

19. Dr. Mohammed's comments to Patient #6 regarding her physical attractiveness were unprofessional and inappropriate. These comments, together with Dr. Mohammed's conduct in forcing the patient to brush up against him with her chest as she exited are, in our view, conduct unbecoming, improper and unprofessional pursuant to Section 46(o) of *the Medical Profession Act*.

20. **Charge #7/Patient** [REDACTED]: We accept Dr. McNab's opinion that a breast examination of this patient was not medically indicated and that the manner in which it was conducted and Dr. Mohammed's failure to record the examination in the patient's chart did not accord with the accepted standards of practice of the profession. Accordingly, we find Dr. Mohammed guilty of unprofessional conduct pursuant to Section 46(p) of *The Medical Profession Act* and Bylaw 8.1(b)(ix).

VI. SUMMARY/CONCLUSION

21. In all instances charged, we conclude Dr. Mohammed was guilty of unprofessional conduct pursuant to Section 46(p) of *the Medical Profession Act* and Bylaw 8.1(b)(ix). With respect to Patient #1 and Patient #6, we also find Dr. Mohammed guilty of unprofessional conduct under Section 46(o) of *the Medical Profession Act*.

DATED at Saskatoon, Saskatchewan, this 6th day of July, 2023.

"Alma Wiebe, K.C."
Alma Wiebe, K.C.,
Chair of the Disciplinary Hearing Committee

"Dr. Omopelola (Lola) Sotomi"
Dr. Omopelola (Lola) Sotomi,
Member of the Disciplinary Hearing Committee

"Dr. James Stempien"
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Member of the Disciplinary Hearing Committee