

## **PENALTY HEARING FOR DR. LAURENS STEENBERG**

### **DECISION AND REASONS FOR DECISION**

This matter was heard by the Council of the College of Physicians and Surgeons of Saskatchewan at Saskatoon on June 19, 2009.

#### **ALLEGATION**

That Dr. Laurens Steenberg is 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 46 and/or bylaw 51(2)(j) of the bylaws of the College of Physicians and Surgeons of Saskatchewan.

#### **PLEA/RESPONSE TO THE ALLEGATION**

Dr. Steenberg entered a guilty plea with respect to two charges of unprofessional conduct.

#### **EVIDENCE**

The following are charges and the facts pertaining to those charges:

##### **Charge Number 1**

*You Dr. Laurens Steenberg 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 46 and/or bylaw 51(2)(j) of the bylaws of the College of Physicians and Surgeons of Saskatchewan.*

*The evidence that will be lead 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 46 of the College bylaws;*
- (b) You failed to maintain records for your patients which included a record of your history obtained, a record of your physical examination and a record of the investigations which you ordered;*
- (c) You failed to maintain patient records in a systematic way.*

- 1) Dr. Steenberg practiced at the Southwest Medi-Centre clinic from approximately 2001 to approximately March 10, 2008;

- 2) At the time he left the Southwest Medi-Centre clinic the physicians with whom he worked expressed concern that he had seen a large number of patients for whom there were no patient entries in their charts.
- 3) Dr. Karen Shaw interacted with Dr. Steenberg with respect to those charts and entries. On March 24, 2008 he sent a letter to Dr. Shaw (attached to this document) in which he stated that “As of March 28, 2008 I will hand in one month of completed charts and then one month on a weekly basis until all of my charts are caught up.
- 4) On April 9, 2008 Dr. Steenberg dropped off approximately 100 patient encounter sheets at Southwest Medi-Centre for entry into patient charts. A further approximately 100 patient encounter sheets were delivered on approximately October 22, 2008. There were no further documents provided for entry into patient charts until after charges of unprofessional conduct were laid against Dr. Steenberg.
- 5) The letter of complaint to the College from the physicians at the Southwest Medi-Centre dated April 8, 2008, and subsequent information provided by the clinic, stated that there were 5312 patient encounters by Dr. Steenberg which resulted in MSB being billed, and for which the clinic had incomplete or no records.
- 6) Southwest Medi-Centre operated an electronic medical record system. Dr. Steenberg stopped dictating clinical notes from July, 2004 to March, 2008. During that period of time there were laboratory test results and ECGs which were retained by Dr. Steenberg, but which were not recorded in patient charts.
- 7) While working at the Southwest Medi-Centre, physicians at the clinic expressed concern to him about his failure to enter information into patient charts. The record of the Staff Meeting for the Southwest Medi-Centre of August 22, 2006, which Dr. Steenberg attended state that “Some transcriptions from Dr. L. Steenberg that are outstanding”(sic).
- 8) The Minutes of the Meeting of the Southwest Medi-Centre clinic of March 5, 2008 state:

*Concern was expressed with Dr. Steenberg regarding progress notes that are not up to date. This creates problems when other physicians followup with these patients. We do not know what treatment have been prescribed. Sometimes the patients don't know either because they did not bring the medication with them. Pharmacies have to be contacted to find out what prescriptions have been given. Sometimes samples have been given, and there is no way to track what was given or what non-prescription treatment was prescribed, what investigations were to be ordered and whether they were ordered or not. Physicians requested from Dr. Steenberg ideas on how we can help him to improve his notation on patient charts. He has been booked off on Tuesdays, but unfortunately, he failed to com in on Tuesdays to complete his records. As per his agreement, the clinic does not bill for any patient encounters that there is no record on...*

*Dr. Steenberg did inform the clinic that he had better support at the Associate Clinic in the form of Cathy, the clinic manager there, who would take his scribbled notes and would formulate a progress note. Physicians were in agreement that this is not acceptable or good practice as a no-medical person cannot understand what he meant with a few scribbled notes. Dr. Radevski questioned whether he can bring in his records for review and we can decide if they can be scanned onto the chart. He informed members that he has approximately five bags with patient records in his vehicle and at home...*

*Dr. Steenberg will think about the recommendations and plans that the physicians have suggested to help him with his record keeping. He did not have any other solution to offer. He did express that if record keeping is such a big problem for the clinic and the staff cannot assist him to formulate a progress note out of his rough documentation, he might consider joining his wife, and the clinic would be in a worse predicament without him. Resolution was that physicians made recommendations for Dr. Stenberg, and he will think about this.*

- 9) There were other records maintained by Southwest Medi-Centre that clinical notes were outstanding. Attached to this document are the records entitled "LS Outstanding Dictation" for three different time periods.
- 10) After the charges were laid against Dr. Steenberg, Dr. Kendel worked with him to review what information could be provided for patient charts, and to minimize the risk of patient harm as a result of Dr. Steenberg's failure to keep medical records and failure to provide required reports.
- 11) As a result of that review, Dr. Steenberg has agreed to send a letter to all of the patients who can be contacted for whom contemporaneous records were not maintained, and to advise them of the lack of records. The wording of that letter has been arranged between Dr. Kendel and Dr. Steenberg.
- 12) Dr. Steenberg has, to the extent that he is able to do so, now organized and submitted to his former clinic the accumulated / partially completed records to be placed on the appropriate charts.
- 13) Dr. Steenberg has signed an undertaking (dated June 8, 2009) in which he has agreed that he:
  - a) Will send a letter to each of the patients for whom a medical record was not completed and for whom he is able to locate an address. The College is working with Medical Services Branch to obtain current contact information for those patients;
  - b) Take steps to contact patients if his review of patient information indicates that the patient may not have received appropriate followup care;
  - c) Will maintain the currency of patient records in future;
  - d) Agrees to a review of his practice at the end of 3 months and at the end of 12 months following the Council imposing penalty;
  - e) Will attend the Record Keeping Course offered by the College of Physicians and Surgeons of Ontario at the first opportunity to do so.

## **Charge Number 2**

*You Dr. Laurens Steenberg 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 51(2)(m) of the bylaws of the College of Physicians and Surgeons of Saskatchewan.*

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

- (a) You were requested to provide reports with respect to the medical condition of one or more of the patients identified in this charge;*
- (b) You failed to provide the required reports within a reasonable time;*
- (c) The patients with respect to whom you failed to provide reports within a reasonable time were one or more of* [REDACTED]

- 1) The facts referred to in relation to the first charge are also relevant with respect to the second charge.
- 2) Dr. Steenberg was asked to complete medical forms for the patients referred to in Charge number 2. Some of the patients were Workers Compensation claimants and the information was requested in connection with Workers' Compensation claims. Some patients required forms to be completed for purposes of insurance claims. For some patients there were multiple requests. There were five telephone calls between March 19 and April 19, 2007 in an effort to have the form for Russell Drayton sent to the insurance company. Dr. Steenberg completed the form in February, 2008.
- 3) One of the forms of unbecoming, improper, unprofessional or discreditable conduct defined in College bylaws (51(2)(m) is:
  - (m) Failing to provide within a reasonable time any report or certificate requested by a patient or a patient's authorized agent in respect of an examination or treatment provided by a physician.*
- 4) The Minutes of the Meeting of the Southwest Medi-Centre clinic of March 5, 2008 state:

*Patients phone about insurance forms that are not completed for a period extending 1-2 months. Instances have been reported where staff members including Shelly have been screamed at and threatened because these forms have not been completed. Recommendation from physicians was that an appointment be scheduled for the patient with Dr. Steenberg and the patient be given a copy of the form or the patient be instructed to request Dr. Steenberg to complete the form while they are in the office with him.*

## **FINDING**

The Council considered the evidence as presented and accepted Dr. Steenberg's guilty plea on both counts of unprofessional conduct.

## **EVIDENCE REGARDING PENALTY**

Counsel for the College and counsel for the member submitted their evidence and proposals for penalty and costs.

### **Aggravating factors**

Counsel for the College identified the following:

- 1) Dr. Steenberg did little of significance to change his conduct or to address the outstanding records in response to concerns raised by his colleagues;
- 2) Dr. Steenberg did little of significance to address the outstanding records in response to concerns discussed with Dr. Shaw;
- 3) Dr. Steenberg did little of significance to address the outstanding records until after he was charged with unprofessional conduct despite his letter of March 24, 2008 indicating that he would do so.

### **Mitigating factors**

Counsel for the College identified the following:

- 1) One of the factors which may have contributed to some of his conduct may have been his personal and psychiatric difficulties that he was dealing with at the time (about which a psychiatric report was submitted for review);
- 2) He has entered a guilty plea, has avoided the necessity of a hearing on the charges, and has, albeit belatedly, done what he can to address the patient records he failed to maintain and has agreed to send letters to the affected patients;
- 3) The letters will harm his reputation and will cause him to suffer embarrassment for his conduct. That reduces the need for specific or general deterrence in connection with the penalty.

Counsel for the member emphasized the member's personal difficulties (his wife's possible postpartum depression; his children's health) and psychiatric illness (depression) as underlying issues to be considered.

The member, appearing as a witness, expressed his remorse and his good intentions for the future as reflected in his signed undertaking. He is currently practicing on a very limited basis to ensure that things “don’t get out of hand” again in the future.

### **Precedents**

No Saskatchewan precedents were identified. Four Ontario precedents (*Kozner, Lau, Newell, Orbeck*) were cited by counsel for the College as somewhat relevant to this case. Penalties in those cases some combination of reprimand; costs; fines; supervision by an assessor or practice monitor; threat of suspension; and suspension.

### **Proposals**

The Registrar’s Office, through counsel for the College, proposed that the penalty include a suspension from practice, with a recommendation of one month, and an order for the payment of costs.

Counsel for the member proposed that a suspension was unwarranted in the circumstances.

### **PENALTY AND REASONS FOR PENALTY**

The Council considered carefully the facts and submissions on both sides in coming to its decision, as well as the precedents identified. The Council affirmed that the penalty imposed should express commensurate condemnation for the conduct and limit the likelihood of future recurrence.

In determining the penalty imposed, Council took into account the following:

- 1) The sheer number of patients involved is staggering. There are approximately 5000 records that were not and cannot be created.
- 2) This conduct was unquestionably dangerous, seriously jeopardizing longitudinal patient care. The degree of actual harm that may have resulted is not and cannot be known.
- 3) There is the need to send a strong, clear signal to the member, as well as other MDs, patients, and the community at large, that this conduct is simply unacceptable, regardless of circumstances of the physician.
- 4) There is a need to recognize and affirm the efforts made by the member’s colleagues to maintain appropriate records themselves, as well as their efforts to have this specific situation addressed.
- 5) The June 8, 2009 undertaking is in place, which will limit patient harm and will ensure that future record keeping by the member will meet the standards of practice.
- 6) Costs incurred by the College were mitigated by the member’s willingness to enter a guilty plea.

Council determined that a fine alone would be insufficient to address the seriousness of the conduct, and that a suspension was necessary. Council accepted the recommendation of the Registrar’s Office that the suspension be of one month’s duration. Council further determined that the member ought to pay costs accrued by the College up to the date on which he agreed to enter a guilty plea.

Council determined that no additional financial penalty was warranted.

## **ORDER AS TO PENALTY AND COSTS**

Pursuant to section 54(1) of **The Medical Profession Act, 1981**, the Council of the College of Physicians and Surgeons of Saskatchewan imposes the following disposition upon Dr. Laurens Steenberg:

- 1) Pursuant to section 54(1)(b), the Council suspends Dr. Laurens Steenberg from the privileges of a duly qualified medical practitioner under The Medical Profession Act, 1981, for a period of one month, commencing no later than August 19, 2009
- 2) Pursuant to section 54(1)(i), the Council directs Dr. Steenberg to pay the costs of and incidental to the investigation and hearing in the amount of \$3,389.84. Such payment shall be made in full by December 31, 2009.
- 3) Pursuant to section 54(2), if Dr. Steenberg should fail to pay the costs as required by paragraph 2, Dr. Steenberg's licence shall be suspended until the costs are paid in full.
- 4) The Council reserves to itself the right, at Dr. Steenberg's request, to grant extensions of time for the cost payment Dr. Steenberg is required to make, or to amend the terms for payment of the costs and, in the event that Dr. Steenberg complies with an extension of time for payment granted to him, or complies with the amended terms of payment granted to him, he shall not be suspended pursuant to paragraph 3 of this order.

Dated the 17<sup>th</sup> day of September, 2009 at Saskatoon, Saskatchewan