IN THE MATTER OF *THE MEDICAL PROFESSION ACT, 1981*
AND IN THE MATTER OF DR. THOMAS STEPHANUS CHAMBERS OF REGINA, SASKATCHEWAN

No one appearing for Dr. Thomas S. Chambers

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

REASONS FOR DECISION

1. BACKGROUND

[1] Dr. Thomas Stephanus Chambers is a physician from South Africa who practiced family medicine in Regina, Saskatchewan for approximately 17 years. He returned to South Africa in early 2009, and subsequently advised the College of Physicians and Surgeon of Saskatchewan (the "College") that he will not return to Saskatchewan or to Canada to practice medicine.

[2] On March 19, 2009, a Discipline Hearing Committee (the "Committee") comprised of Ms. Alma Wiebe, Q.C. as Chair, Dr. Joan Baldwin, Dr. Jocelyne Martel and Dr. George Gilmour found Dr. Chambers guilty of two counts of professional misconduct. These citations related to fraudulent claims submitted to the Medical Services Plan for medical services that Dr. Chambers had not rendered. By an Agreed Statement of Fact executed by both Dr. Chambers' lawyer and Mr. Bryan Salte, the College's lawyer, Dr. Chambers admitted the allegations against him. After deliberating on the evidence presented during the hearing, the Committee concluded that the College had proved the allegations against Dr. Chamber. Accordingly, the Committee ruled that Dr. Chambers had acted in a manner which amounted to unprofessional conduct as defined in subsections 46(k), (l) and (p) of *The Medical Profession Act, 1981*, S.S. 1980-81, c. M-10.1, and subsections 51(2)(d) and (g) of the *Bylaws* of the College.

[3] In its decision, the Committee determined that because Dr. Chambers declined to appear either in person or through counsel, it would be prudent to refrain from recommending an appropriate penalty to Council. This matter came before Council on April 18, 2009. Although advised of the Committee's disposition of the discipline charges against him and of the date of the penalty hearing before Council, Dr. Chambers declined to participate. In Council's view, Dr. Chambers, by his deliberate refusal to participate at that hearing, forfeited his right to make submissions respecting penalty.

[4] After hearing submissions from Mr. Salte on behalf of the College and reviewing the materials filed at the hearing, Council imposed the following penalty:

- That Dr. Chambers be suspended the practice of medicine for a period of six (6) months;
- That Dr. Chambers obtain psychiatric care from a qualified medical practitioner agreeable to the Registrar of the College for a period of two (2) years;
- That Dr. Chambers participate in a recognized medical ethics program agreeable to the Registrar of the College;
- That Dr. Chambers be fined in the amount of $10,000, and
- That Dr. Chambers pay to the College costs of these proceedings in the amount of $16, 053.34.

What follows are Council's reasons for this penalty.

2 FACTUAL CIRCUMSTANCES AND THE HEARING COMMITTEE'S DECISION

[5] Dr. Chambers admitted that on five separate days in September, October and November 2007, he created fictitious electronic medical records for patients he had not treated and fabricated billing records for those patients to be submitted to the MCB for payment. The essential facts were set out in the Agreed Statement of Fact placed before the Committee. Dr. Chambers did not, however, admit that his actions amounted to unprofessional conduct. As a consequence, Mr. Salte had to call two witnesses who gave oral testimony at the hearing. At page 4 of its Decision, a copy of which was supplied to Council at the penalty hearing, the Committee ruled as follows:

> Having carefully reviewed the evidence including the agreed statement of facts, the testimony of Dr. Cameron and Ms. Benning, and copies of the clinic records supporting their testimony, we find that the College has met the burden of proving the charges before us on a balance of probabilities. Dr. Chambers admits he did not see the patients in question. The evidence, both oral and documentary, shows clearly that he fabricated records with respect to these patients and caused [the Medical Services Plan] to be billed for services not rendered.

[6] Once the College had established the allegations against Dr. Chamber on the civil burden of proof, namely proof on a balance of probabilities, the Hearing Committee next considered whether these facts demonstrated that Dr. Chambers had acted in a manner which qualified as unbecoming, improper, unprofessional or discreditable conduct from section 46 of *The Medical Profession Act, 1981*, S.S. 1980-81, c.M-10.1 as amended. In light of these factual findings, it should not occasion surprise that the Committee ruled Dr. Chambers' actions constituted unprofessional conduct as defined in *The Medical Profession Act, 1981*.

[7] After quoting the relevant provisions of *The Medical Profession Act, 1981*, the Committee concluded at page 5 of its Decision that:

> In doing what he did, Dr. Chambers clearly committed acts of dishonesty for which he must be held responsible. Honesty is at the heart of integrity and integrity grounds ethical professional conduct. Dr. Chambers' actions discredit not only himself but the profession. Accordingly, even if the legislation and bylaws were not as clear as they are in condemning falsifying records and charging fees for services not rendered, we would have come to the conclusion that the conduct here is unbecoming, improper, unprofessional and discreditable.
>
> That said the provisions of the Act and the bylaws **. . .** are clear. We find the conduct exhibited by Dr. Chambers in this case fall squarely within the definition of conduct unbecoming in subsections 46(k),(l) and (p) of the Act and bylaw 51(2)(d) and (g).

[8] These findings and the language employed by the Committee are devastating to Dr. Chambers. They cry out for a response. Nevertheless, Dr. Chambers refused to address the Committee's conclusions. Dr. Chambers' reluctance to address the Committee's Decision and his total failure to assist Council in its obligation to assess penalty, placed Council in a difficult situation. While Council desires to determine the appropriate penalty armed with as much relevant information as possible, it is cannot decline to impose a penalty because Dr. Chambers deliberately chose not to participate in this phase of the statutory process.

3. THE APPROPRIATE PENALTY

3.1 General Considerations

[9] Once a discipline hearing committee finds a member guilty of unprofessional conduct, Council is authorized by section 54 of *The Medical Profession Act, 1981* to set the appropriate sentence. Section 54 enumerates a wide spectrum of possible penalties ranging at one end from a simple reprimand (s. 54(1)(e)) to suspension or revocation of the member's license to practice medicine in Saskatchewan (ss. 54(1)(b), (a)) at the other. Council may also impose fines not exceeding $15,000 (s. 54(1)(f)), require the member to fulfill undertakings relating to retraining or treatment which are tailored to the specific circumstances of a particular case (s. 54(1)(g)), and order the member to pay the costs of the investigation and hearing (s. 54(1)(i)).

[10] Council has considerable latitude to craft a penalty which addresses appropriately the particular circumstances of the case before it. Yet, when fulfilling this task the over-arching consideration is the public interest. The function of Council is to govern the medical profession in the public interest, and protection of the public must be its paramount objective. Indeed, the Saskatchewan Legislature has in section 69.1 of *The Medical Profession Act, 1981* explicitly directed Council to give protection of the public, pride of place in all its sentencing decisions. Section 69.1 provides:

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

3.2 Relevant Factors When Sentencing a Physician for Unprofessional Conduct

[11] While Council enjoys wide discretion when sentencing a physician found guilty of unprofessional conduct, any sentence must be crafted on a principled basis. In Saskatchewan, the relevant principles to be taken into account when sentencing a physician for professional misconduct were announced in *Camgoz v. College of Physicians and Surgeons (Saskatchewan)* (1993), 114 Sask. R. 161 (Q.B.) There, a discipline hearing committee found the physician guilty of unprofessional conduct for sexually assaulting a female patient as a result of

conducting an unnecessary breast examination. As a consequence, this Council revoked his licence for five years and imposed a fine of $10,000. On appeal, the Court of Queen's Bench sustained both the finding of unprofessional conduct and the sentence.

[12] Respecting the appeal from sentence, Grotsky J. identified 11 factors which are generally relevant when sentencing a physician. As set out in paragraph 49 of his reasons for judgment, these factors are:

- The nature and gravity of the proven allegations
- The age of the offending physician
- The age of the offended patient
- Evidence of the frequency of the commission of the particular acts of misconduct within particularly, and without generally, the Province
- The presence or absence of mitigating circumstances, if any
- Specific deterrence
- General deterrence
- 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 members (properly considered) conduct since that time
- Ensuring that the penalty imposed will, as mandated by section 69.1 of [*The Medical Profession Act, 1981*], protect the public and ensure the safe and proper practice of medicine
- The need to maintain the public's confidence in the integrity of [Council's] ability to properly supervise the professional conduct of its members
- Ensuring 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

(Similar sentencing factors for professional misconduct have been applied in other provinces, see especially: *Jaswal v. Newfoundland (Medical Board)* (1996), 42 Admin. L. R. (2d) 233 (Nfld. S.C.), at para. 36; *Pottie v. Nova Scotia Real Estate Commission*, [2005] N.S.J. No. 276 (S.C.), at para. 64, and *Litchfield v. College of Physicians & Surgeons (Alberta)*, 2008 ABCA 164, at para. 20.)

[13] Justice Grotsky underscored that these 11 factors were neither exhaustive nor enumerated in degree of importance. He also acknowledged that because a particular sentence must be tailored to the specific factual circumstances before Council, the relevance of these

factors will vary in application. See: *Camgoz, supra*, at para. 50. In the case before him, when these various factors were weighed, Grotsky J. concluded that the sentence imposed by Council was appropriate.

[14] Since then, Council has regularly employed the *Camgoz* factors. It should be noted that Grotsky J. seems to suggest that protection of the public as identified in section 69.1 of *The Medical Profession Act, 1981* is but one factor to be weighed when passing sentence. However, it is more consistent with the statutory injunction contained in section 69.1 to treat protection of the public and the safe and proper practice of medicine as the over-arching objective in sentencing. It is the consideration which must always be top of mind for Council when making any of its decisions, including an appropriate sentence. It was the fundamental consideration employed in this case.

[15] With these general comments, Council now turns to an application of those factors to Dr. Chambers' circumstances.

3.3 Application of *Camgoz* Factors to Dr. Chambers

[16] As anticipated in *Camgoz*, not all of the factors identified in that case apply to Dr. Chambers' case. In addition to *Camgoz*, Mr. Salte referred Council to a number of decisions of the Ontario College of Physicians and Surgeons' Discipline Committee, namely: *Re Metcalfe* (June 18, 2007); *Re Moore* (February 18, 2002); *Re Davis* (October 23, 2000); *Re Pakes* (May 25, 2000); *Re Cauchi* (October 8, 1999); *Re Kambites* (November 15, 1999), and *Re MacDiarmid* (February 28, 2001). Council was also referred to one of its prior sentencing decisions relating to unprofessional conduct in circumstances similar to those of Dr. Chambers, namely *Re Hardy* (1995).

3.3.1 The Nature and Gravity of the Proven Allegations

[17] The first factor asks Council to assess the nature and gravity of the conduct for which a hearing committee comprised of Dr. Chambers' peers found him guilty of professional misconduct. It is appropriate that this is the first enumerated factor as the nature of the misconduct will inform the analysis and application of the other factors listed in *Camgoz*.

[18] The misconduct found by the Hearing Committee to be unprofessional in these circumstances is deserving of severe condemnation for two reasons. First, over a period of approximately three months in 2007, Dr. Chambers deliberately created fictitious appointments and altered electronic medical records on five separate days. Clearly his actions were intentional in every sense of the word. Dr. Chambers is fortunate, indeed, that his misconduct did not lead to a police investigation and subsequent criminal charges. Yet, this fact does not diminish the corrosive effect his egregious actions have upon the integrity of the medical profession in this province.

[19] Second, falsifying the health information of individual patients is a potentially dangerous practice. Continuity of medical care depends upon accurate medical recordkeeping and Dr. Chambers' willful tampering with his patient's medical records not only breaks his patient's trust but may also endanger their physical well-being. The Discipline Committee of the Ontario College of Physicians and Surgeons made this point well in *Re Metcalfe* (June 18, 2007) as follows:

> The public has the right to expect that their physicians will protect the integrity of their medical records which ought to reflect accurately the facts related to their health care. Although apparently no harm befell any patient as a consequence of Dr. Metcalfe's fabricated clinical findings and non-existent patient visits, this repeated falsification of records exposed many patients to potential harm. Safe and appropriate treatment depends on an accurate account of past clinical history. The penalty will serve to assure the public that such willful tampering with medical records will be dealt with severely.

3.3.2 The Age of the Offending Physician

[20] In this case, the age of the offending physician is not a significant consideration. Dr. Chambers is not a young or inexperienced physician. In any event, the egregious and deliberate nature of the misconduct that lies at the heart of this matter cannot be explained by immaturity or ineptitude. Simply put, Dr. Chambers is old enough and smart enough to know that his actions were wrong, if not illegal.

3.3.3 The Age of the Offended Patient

[21] In these circumstances, the age of the offended patient is not relevant. There is no individual complainant or complainants in this case.

3.3.4 Frequency of the Misconduct

[22] As already observed the misconduct that formed the basis of Dr. Chambers' professional misconduct occurred repeatedly over a period of approximately three months. In no way can it be characterized as an indiscretion. It was deliberate, dishonest conduct committed on at least 5 separate occasions. The frequency of such misconduct is a significant factor that commends the imposition of a severe penalty.

3.3.5 Presence or Absence of Mitigating Circumstances

[23] There are no mitigating circumstances in this case. As noted earlier, Dr. Chambers chose not to participate in this penalty hearing. Yet, included in the material filed at the hearing was a letter from Dr. Chambers' former psychiatrist, Dr. M. Eisa of the Regina Qu'Appelle Health Region. This letter dated February 5, 2009 and filed before the discipline hearing committee, demonstrates that Dr. Eisa had had only limited contact with Dr. Chambers, first in Spring 2006 and briefly again in April 2008. Indeed, Dr. Eisa expressly acknowledged that Dr. Chambers was not his patient during the relevant time frame in 2007.

[24] Council gave no weight to this letter as a mitigating factor in relation to Dr. Chamber's misconduct which formed the basis of these charges. Without an explanation from him as to the relevance of this information and its causal connection to his actions, it would be speculative for Council to conclude that Dr. Chambers' mental health challenges were responsible for his professional misconduct.

[25] That said, however, it is a factor which Council took into account when crafting its penalty. It is apparent that Dr. Chambers suffers from Bipolar Affective Disorder, type I, a treatable mental illness for which it seems he seeks psychiatric attention only during its most acute phases. Should Dr. Chambers ever return to Canada to practice medicine, contrary to his vow to the College, Council is of the view that it is essential he submit to the care of a psychiatrist for a period of two (2) years. It is necessary to safeguard the public interest, not to mention to ensure the safe and proper delivery of health care, that when practicing medicine Dr. Chambers be mentally stable.

3.3.6 Specific Deterrence

[26] As a sentencing principle, specific deterrence is always relevant. No evidence was lead at the penalty hearing to indicate that Dr. Chambers had previously been found guilty of professional misconduct, let alone misconduct of the nature at issue in this case. This together with the fact that it is unlikely Dr. Chambers will return to Canada to practice medicine, suggests that specific deterrence is not as a significant factor in this case as it would be in others.

[27] At the same time, the sentence which Council passes must adequately reflect the public opprobrium that attaches to Dr. Chambers' actions and be sufficiently severe to discourage him from ever repeating it, either here in Canada or elsewhere. A significant period of suspension from the practice of medicine coupled with a heavy fine should achieve this objective.

3.3.7 General Deterrence

[28] Like specific deterrence, general deterrence is a most relevant consideration in the sentencing process. In this case, it is especially so. In Saskatchewan, the medical system is publicly funded and physicians' fees are paid from revenue raised through taxes. All physicians are remunerated in the same way as there is no privately funded insurance system available in this province. As a consequence, any doctor in Saskatchewan could succumb to the same temptation which afflicted Dr. Chambers, namely willfully tampering with patients' medical records and submitting fraudulent invoices to the MSP for payment.

[29] It is true that Council was referred to only one previous decision relating to similar misconduct from another physician in Saskatchewan committed more than a decade ago, see *Re Hardy* (1995). This fact bespeaks the overall integrity of the medical profession in this province and might indicate that general deterrence is not an important consideration in this case. Nevertheless, Council must signal to all physicians that such unprofessional conduct will not be tolerated and will attract a severe penalty. In essence, Dr. Chambers defrauded not only the Saskatchewan Government but also the Saskatchewan people. When imposing penalty in cases like this one, a strong message must be telegraphed to all physicians that such dishonesty is reprehensible and any member who indulges in it will be dealt with severely by their professional regulatory body. The public interest demands no less.

3.3.8 The Physician's Prior Record

[30] In Dr. Chambers' case, this particular consideration does not arise. At the penalty hearing, Mr. Salte on behalf of the College did not present any evidence of a prior disciplinary record for Dr. Chambers.

3.3.9 Consistent with section 69.1 of *The Medical Profession Act, 1981*

[31] As set out earlier in these reasons, section 69.1 of *The Medical Profession Act, 1981* admonishes Council to give priority to "protection of the public and the safe and proper practice of medicine". Council has kept those considerations at the forefront of its reasons for imposing the sentence it has. These considerations serve as *leit motifs* throughout these reasons. Council treats these important public policy objectives not as simply another consideration in the sentencing process, but rather as the over-arching objectives which the sentence being imposed seeks to secure.

3.3.10 Public Confidence in the College's Ability to Supervise its Members

[32] The Saskatchewan Legislature has delegated to the College and to Council the authority to regulate the medical profession in this province. It is a significant grant of power and it must be exercised diligently, responsibly and on a principled basis. One of the most fundamental aspects of this delegated authority is Council's responsibility to govern the medical profession in the public interest. This responsibility includes prosecuting members for alleged professional misconduct and sentencing those members whom a discipline hearing committee determines are guilty of unprofessional conduct. It is precisely for this reason that the sentence which is imposed should demonstrate to members of the public that Council is taking its delegated responsibilities seriously.

[33] Council is satisfied that Dr. Chambers' sentence is sufficient to sustain public confidence in Council's ability to carry out its statutory mandate. The penalty is stiff, comprising a significant suspension from medical practice, a substantial fine, costs of these proceedings and the requirement that Dr. Chambers undergo a period of consistent psychiatric care should he ever return to practice medicine in Saskatchewan. This sentence reflects the public opprobrium which rightly attaches to the deceitful and deliberate nature of professional misconduct at issue here. It also attempts to accommodate Dr. Chambers' return to medical practice in this province, while at the same time protects the public by having his mental health monitored by a qualified medical practitioner. Cumulatively, these elements should

demonstrate to members of the Saskatchewan public that Council is fulfilling its statutory responsibilities to regulate and supervise the medical profession in the public interest.

3.3.11 Proportionality of Sentence Compared to Other Relevant Cases

[34] It is important that any court or tribunal called upon to sentence an individual ensure that the sentence imposed is consistent with similar penalties set in similar cases. Proportionality is a central principle in sentencing for it seeks to ensure that individual sentences are principled and not arbitrary.

[35] As noted earlier in these reasons, only one previous decision of Council—*Re Hardy*—was cited by Mr. Salte. Unlike Dr. Chambers, Dr. Hardy was not charged with preparing false records. Council sentenced Dr. Hardy in 1995 after a discipline hearing committee found his guilty of unprofessional conduct for billing for fictitious services provided to approximately 65 patients. At that time, Council suspended Dr. Hardy's medical license for a 3 month period; imposed a fine in the amount of $5,000, the maximum fine allowable at the time, and costs for the College's investigation and subsequent proceedings in the amount of $74,000. Even though the offence for which Dr. Hardy was convicted is perhaps less serious than that for which Dr. Chambers was convicted, *Re Hardy* supports a significant suspension, a substantial fine and full indemnification for costs as a proportionate penalty in similar circumstances.

[36] Mr. Salte also cited a number of decisions rendered by the Discipline Committee of the Ontario College of Physicians and Surgeons in cases similar to those of Dr. Chambers. Those various decisions, identified in paragraph 16 of these reasons, do not bind Council; rather, they are persuasive only. That said, they offer useful comparators.

[37] It is worthy of note that in a number of these cases, the physician involved had also been convicted criminally for willfully defrauding OHIP, see for example: *Re Moore*; *Re Davis*; *Re Pakes*; *Re Cauchi*, and *Re Kambites*. Fortunately for Dr. Chambers, he has been spared such a fate. It is also worthy to note that the sentences imposed by Ontario discipline committees normally range from between 3 to 6

months. There are, of course, exceptions. For example, in both *Re Moore* and *Re Kambites* the discipline committee imposed a reprimand; while in *Re Metcalfe* and *Re McDiarmid* cases where no criminal charges were prosecuted, suspensions of 3 and 5 months respectively were imposed. Curiously, various Ontario discipline committees appear to view a criminal record for fraud as a mitigating rather than an aggravating factor in sentencing. Nonetheless, this brief review of the penalties imposed by Ontario discipline committees demonstrates that in most cases a significant period of suspension as well as a substantial fine is warranted.

[38] As Mr. Salte highlighted during his sentencing submissions to Council, most of the doctors in the Ontario cases cited were not charged with falsifying their patients' records. Nor for that matter was Dr. Hardy. In this case, the unprofessional conduct at issue involves both falsifying medical records and filing fraudulent invoices. These circumstances warrant the imposition of a penalty at the high end of the range reflected in these other cases.

3.4 Conclusion

[39] In conclusion, when the *Camgoz* analysis is applied to the circumstances of Dr. Chambers' unprofessional conduct Council determined that a significant penalty was warranted. Council concluded that suspending Dr. Chambers' medical licence for 6 months and imposing a $10,000 fines which is lower than the maximum allowed under subsection 54(1)(f) of *The Medical Profession Act, 1981* is an appropriate and principled penalty. It is consistent with penalties imposed in Ontario for similar transgressions as well as in *Re Hardy*, the only relevant Saskatchewan decision.

4. COSTS

[40] Subsection 59(1)(i) of *The Medical Profession Act, 1981* authorizes Council to seek indemnification for all costs related to the proceedings from the physician who is found guilty of unprofessional conduct. Mr. Salte advised that in Dr. Chambers' case the total amount of these costs came to $16,058.34.

[41] Generally speaking, the physician should be responsible for reimbursing the College for monies expended by it in respect of disciplinary proceedings taken against him or her. This general principle should be departed from only in circumstances where it is demonstrated to Council that it would cause undue hardship to the physician or would not be appropriate for the physician to shoulder all or any of these costs. These will, of course, be assessed on a case by case basis.

[42] Council concluded that in Dr. Chambers' case no such circumstances existed. While it does not appear that Dr. Chambers did anything to prolong or to delay these proceedings, he did little to expedite them. It is true that Dr. Chambers admitted the factual allegations against him; however, he did not concede that these circumstances amounted to unprofessional conduct. As a consequence, a full hearing was convened which required the calling of evidence.

[43] Accordingly, Council determined that Dr. Chambers should be responsible for repaying all costs expended by the College on his professional discipline matter, and it is so ordered.

5. SEALING OR REDACTING MEDICAL EVIDENCE PRESENTED AT HEARING

[44] One final matter needs to be addressed. At both the hearing before the Committee and before Council, a letter from Dr. M. Eias, Dr. Chambers' former psychiatrist, was entered into evidence. As a consequence, the issue arose as to whether this document which formed part of the record before Council should be either sealed entirely or redacted before being released as a public document.

[45] This presents a delicate issue requiring a careful balancing of two competing interests. On the one hand, disciplining errant members is one of the most significant responsibilities delegated to Council. It is a public process and as such it must be undertaken in as open and transparent a manner as possible so as to sustain public confidence in Council's ability to regulate the medical profession in the public interest. Sealing or redacting documents that contain intimate personal information which are filed at a penalty hearing should be the exception rather than the rule.

[46] On the other, Council is sensitive to the fact that revealing intimate personal information of the kind contained in parts of Dr. Eias' opinion letter may be embarrassing to the physician being sentenced. In very rare circumstances, it could possibly even jeopardize the physician's ability to continue effectively his or her medical practice. In those extraordinary circumstances, redaction and even complete sealing may be appropriate. However, in cases of unprofessional conduct where the physician is attempting to mitigate his or her conduct on the basis of health related or addiction related issues, it should not be assumed that this kind of evidence will routinely be shielded from public scrutiny.

[47] In Dr. Chambers' case, this letter was placed into evidence without any explanation as to its relevance to the charges of unprofessional conduct at issue or any request from him that it remain confidential. It appears that Dr. Chambers chose to place the letter into evidence and leave it to the Committee and to Council to make of it what they would.

[48] It is true that GP-15 allows Council on a majority vote to deem any public document confidential. This policy does not distinguish among documents, however. It is more appropriate in disciplinary proceedings when the document is generated by the member and not the College that before any decision is taken a specific request for confidentiality is made formally by the physician. This request should also be supported by submissions as to why public scrutiny should be denied to all or some parts of a document the member has placed into evidence.

[49] Dr. Chambers made no such request in these proceedings. Accordingly, there is no reason, let alone a compelling one, either to seal Dr. Eias' letter or to redact paragraphs from it. The full document will remain part of the record of Dr. Chamber's penalty hearing.

Dated the 17th day of September, 2009 at Saskatoon, Saskatchewan.