

**IN THE MATTER OF THE MEDICAL PROFESSION  
ACT, 1981, R.S.S. 1980-81, CHAPTER M-10.1 AND  
DR. THOMAS STEPHANUS CHAMBERS**

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**DISCIPLINE HEARING COMMITTEE DECISION**

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*A.S.K. LAW*

Discipline Hearing Committee:

Alma Wiebe, Q.C. - Chair  
Dr. Joan Baldwin  
Dr. Jocelyne Martel  
Dr. George Gilmour

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## I. INTRODUCTION

A Discipline Committee Hearing with respect to charges against Dr. Thomas Stephanus Chambers occurred in Regina, Saskatchewan on February 23, 2009. Mr. Brian Salte appeared on behalf of the council of the College of Physicians and Surgeons of Saskatchewan (CPSS). By correspondence dated February 6, 2009, Dr. Chambers, through his lawyer, advised that he did not intend to appear at the Hearing. Neither he nor his lawyer were present.

The charges against Dr. Chambers are as follows:

- 1) You Dr. Thomas Chambers are guilty of unbecoming, improper, unprofessional or discreditable conduct contrary to the provisions of section 46(k), and/or section 46(l), and/or section 46(o), and/or section 46(p) of *The Medical Profession Act, 1981*, and/or bylaws 51(2)(d) of the bylaws of the College of Physicians and Surgeons. Particulars of this conduct are that you caused the medical clinic with which you were then associated, Broad Street Medical Clinic, to submit claims to the Medical Services Plan to which you were not entitled in accordance with the payment schedule for insured services.

The evidence that will be lead in support of this charge is that you caused Broad Street Medical Clinic to submit claims for services that you claimed to have performed for the patients identified in Appendix "A" to these charges when:

- a. you did not provide any examination of or treatment to some or all of the patients in connection with the services billed; and/or
  - b. you did not perform some or all of the necessary services to support the claims which were submitted.
- 2) You Dr. Thomas Chambers 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*, and/or bylaw 51(2)(g) of the bylaws of the

College of Physicians and Surgeons. Particulars of this conduct are that you prepared records in connection with patients that were false, inaccurate and/or misleading.

The evidence that will be lead in support of this charge will be that:

- a. you prepared records for some or all of the patients who you purportedly treated on September 26, 2007, October 12, 2007, October 25, 2007, October 29, 2007 and November 6, 2007 as set out in Appendix "A" to these charges; and,
- b. you did not provide any examination of or treatment to some or all of the patients in connection with the records that you prepared; and/or,
- c. the records that you prepared were not an accurate reflection of the examination and treatment that you provided.

## **II. EVIDENCE**

An agreed statement of facts signed by Mr. Salte and Dr. Chamber's lawyer was filed as an exhibit at the Hearing. It states the following:

### **AGREEMENT TO FACTS:**

Dr. Thomas Chambers and the College of Physicians and Surgeons agree to the following facts for the purposes of the hearing before the discipline hearing committee of the College of Physicians and Surgeons:

1. Dr. Thomas Chambers did not provide services to the patients set out in the charge on the dates specified in the charge.

Counsel for the CPSS called two witnesses, Dr. Mark Cameron and Ms. Rochelle Benning.

Dr. Cameron is a physician at the Broad Street Clinic in Regina where he has been practicing for 17 years. Dr. Chambers practiced in this clinic from 2004 to 2007.

Dr. Cameron described the clinic's normal billing/record keeping practices in simple terms; each physician at the clinic receives a daily billing sheet with the name/chart number of the patient, the time the patient arrived, and whether the patient has an appointment or is a walk-in. This sheet contains a blank space beside each patient for the physician to record the diagnosis and fee code. Each physician completes this document by the end of each day and submits it to the Office Manager for billing.

Encounter sheets are used to provide a snapshot of each patient's history regarding allergies, medications, etc. The physician records notes at the bottom of this sheet during patient visits and later dictates these notes for transcription to the patient's chart. Encounter sheets are referred to by the physician as each patient is seen. The encounter sheets are used to record walk-in attendances and billing codes during evening clinic hours.

On October 29, 2007, Dr. Cameron was told by staff that the scheduling system contained the names of some of Dr. Chamber's patients who had not in fact attended at the clinic. Dr. Cameron conducted an investigation. He reviewed the records and noted that no time of arrival was stamped beside these patient's names. He also noted odd, short, idiosyncratic, misspelled attendance notes with respect to these patients with no typist initials beside them. Dr. Cameron consulted the SMA and the CPSS and asked the Office Manager to call these patients and inquire as to whether or not they attended the clinic on the dates indicated. One of the patients in question, whom Dr. Cameron happened to meet in the ER, stated he had not attended at the clinic on the day shown in Dr. Chamber's notes.

From his investigation, Dr. Cameron concluded that on September 26, October 12, October 25, October 29 and November 6, 2007, the clinic billed for services apparently rendered by Dr. Chambers when, in fact, the patients billed for were not seen. Dr. Cameron also concluded that Dr. Chambers sent in the billings himself (the billing program records the user name) on some occasions, and on others, completed billing sheets which he gave to staff for billing.

The second witness, Rochelle Benning, was employed by the Broad Street Clinic from September 2004 to April 2008 and held the position of Office Manager from July 2007 to

April 2008. One of her duties was to collect all of the physician billing and encounter sheets at the end of each day and enter the billings the following morning.

In September 2007, Ms. Benning noted that Dr. Chambers recorded billing codes on his encounter sheets. In October 2007, she received a voicemail message from Dr. Chambers advising he would henceforth be doing his own billing. He gave no reason for this. That same month, the senior receptionist reported patients (walk-ins) being shown on the computer as having been checked in and seen by Dr. Chambers when in fact they had not appeared at the reception desk. Ms. Benning spoke to Dr. Cameron and subsequently reviewed charted progress notes, encounter sheets and billing sheets with respect to a list of patients Dr. Cameron gave her. She noted on September 26, 2007 that a staff member working evenings entered billings for Dr. Chambers from encounter sheets. This occurred on October 12 and October 25, 2007. On October 29 and November 6, 2007, Dr. Chambers entered his own billings. The clinic's software provider was able to create snapshots of the scheduling windows showing Dr. Chambers as the user and indicating that he checked non-attending patients into the computer. All of these non-attendances were billed to MSP.

### III. DECISION

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 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 MSP to be billed for services not rendered.

Having found that the CPSS has proven the facts alleged, we turn to the question of whether these facts constitute unbecoming, improper, unprofessional or discreditable conduct on Dr. Chambers part.

Section 46 of the *Medical Profession Act*, 1981 provides as follows:

Without in any way restricting the generality of "unbecoming, improper, unprofessional or discreditable conduct", a person whose name is entered on the

register, the education register, the temporary register or the podiatric surgical roster is guilty of unbecoming, improper, unprofessional or discreditable conduct, where he:

- (k) charges a fee or causes a fee to be charged for a service that he has not rendered;
- (l) makes or permits false or misleading statements to be made in an account for payment for services rendered by him when he knew, or when under the circumstances it was reasonable to conclude that he knew, that the statements were false or misleading;
- (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.

The CPSS bylaws provide as follows:

51(2) The following acts or failures are defined to be unbecoming, improper, unprofessional or discreditable conduct for the purpose of Section 46(p) of *The Medical Profession Act, 1981*. 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):

- (d) Charging a fee that is excessive in relation to the services performed.
- (g) Falsifying a record in respect of the examination or treatment of a patient.

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. Chamber's 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.

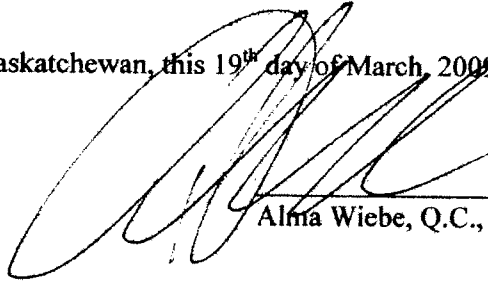
That said, the provisions of the Act and bylaws cited above are clear. We find the conduct exhibited by Dr. Chambers in this case falls squarely within the definition of conduct unbecoming in subsections 46(k),(l) and (p) of the Act and bylaw 51(2)(d) and (g).

We accept counsel's suggestion that, having not heard from Dr. Chambers, it would be inadvisable and inappropriate for this Committee to make any recommendation to Council

with respect to penalty. We note Dr. Chamber's counsel submitted a psychiatric report which was placed into evidence at the Hearing. It may or may not be of assistance in assessing penalty.

The Committee thanks counsel for the College for his presentation of the evidence and the succinct and helpful brief he filed.

**DATED** at Saskatoon, Saskatchewan, this 19<sup>th</sup> day of March, 2009.



Alma Wiebe, Q.C., Hearing Committee Chair