

DISCIPLINE HEARING COMMITTEE DECISION RE DR. SAMIR SAHA

1. INTRODUCTION

A Discipline Committee Hearing with respect to charges against Dr. Samir Saha occurred in Saskatoon, SK, on January 18, 2010. Mr. Brian Salte, QC, appeared on behalf of the Council of the College of Physicians and Surgeons of Saskatchewan (CPSS). By correspondence dated September 9, 2009, Dr. Saha's lawyer advised that he no longer represented Dr. Saha and that neither Dr. Saha nor his lawyer were present.

The charges against Dr. Saha are as follows:

1. You, Dr. Samir Saha, are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of Section 46 (n) and/or Section 46 (o) of The Medical Profession Act 1981 S.S. 1980-81 cM-10.1 and/or bylaws 44 (2) 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 some or all of the following:

- A) A patient, defined in this charge by the initials J.B. attended at your clinic on or about August 28, 2008;
- B) The purpose of J.B.'s visit was to obtain a sick note confirming her illness for employment purposes;
- C) You provided a prescription for Cotridin to her;
- D) The Cotridin was not intended for her use;
- E) You advised J.B. that she should fill the prescription and return the Cotridin to you;
- F) You provided her with \$40 to cover the cost of the prescription;
- G) You advised J.B. that, when she returned with the Cotridin, you would provide her with the sick note;
- H) You were convicted on a charge that you did by a false pretense with intent to defraud attempt to obtain from J.B. 100 ml bottle of Cotridin for a value not exceeding \$5000 contrary to Section 362(1)(a) of the Criminal Code.

2. You, Dr. Samir Saha, 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 of Saskatchewan. Particulars of this conduct are that you provided a prescription for Cotridin to J.B. that the Cotridin was not intended for her use, advised that J.B. fill that prescription and return the Cotridin to you and you gave \$40 to J.B. to cover the cost of the drug. After J.B. returned the Cotridin to you, you would provide her with a sick note.

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

You pled guilty to the charge in a criminal court and that you pled guilty to the CPSS charges of unprofessional conduct.

2. EVIDENCE

A letter from Mr. R. Elson representing Dr. Saha at that time to Mr. Salte dated April 3, 2009, in which Dr. Saha is prepared to enter a guilty plea re the charges laid by the CPSS and also he entered a guilty plea in criminal court to a charge of false pretense with intent to defraud, and received a nine month suspended sentence.

3. DECISION

Having carefully reviewed the evidence, we find the College has met the burden of proving the charges before us on a balance of probabilities. Dr. Saha pled guilty in both criminal court and to the CPSS.

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. Saha's 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:

- (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;
- (n) prescribing drugs for other than medical or therapeutic purposes.

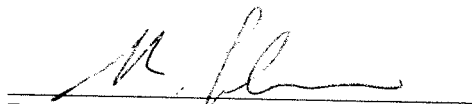
In doing what he did, Dr. Saha clearly committed acts of dishonesty for which he must be held responsible. Honesty is at the heart of integrity and integrity grounds ethical professional conduct. Dr. Saha's actions discredit not only himself but the profession, and the Committee have come to the conclusion 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. Saha in this case falls squarely within the definition of conduct unbecoming in subsection 46 (n) and (o) of the Act.

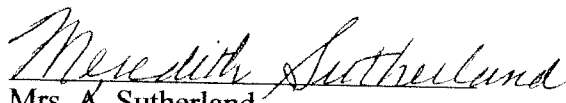
We therefore find Dr. Saha guilty of the charges so laid by the College.

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

DATED AT SASKATOON THIS 25TH OF JANUARY 2010


Dr. G. R. Gilmour (Chairman)


Dr. A. Epp


Mrs. A. Sutherland
m