



Mr. Huangrui (Richard) ZHU

Council Decision

Date Charge(s) Laid:	July 13, 2021
Outcome Date:	September 18, 2021
Penalty Hearing:	September 18, 2021
Disposition:	Reprimand, Costs

The Council acknowledges that it has received Mr. Zhu's undertaking related to his handling of personal health information while licensed as an undergraduate medical student, as well as the certificate evidencing his completion of an ethics course as directed by the College of Medicine Professionalism Panel. That undertaking and certificate provide the basis for the penalty order that follows.

The Council of the College of Physicians and Surgeons of Saskatchewan imposes the following penalty on Mr. Huangrui (Richard) Zhu pursuant to *The Medical Profession Act, 1981* (the "Act"):

- 1) Pursuant to Section 54(1)(e) of the Act, the Council hereby reprimands Mr. Zhu. The format of that reprimand will be in written format.
- 2) Pursuant to Section 54(1)(i) of the Act, the Council directs Mr. Zhu to pay the costs of and incidental to the investigation and hearing in the amount of \$8,846.62. Such payment shall be made in full by 18 September, 2026.
- 3) Pursuant to Section 54(2) of the Act, if Mr. Zhu should fail to pay the costs as required by paragraph 2, Mr. Zhu's licence shall be suspended until the costs are paid in full.
- 4) The Council reserves to itself the right to reconsider and amend any of the terms of this penalty decision, upon application by Mr. Zhu. Without limiting the authority of the Council, the Council may extend the time for Mr. Zhu to pay the costs required by paragraph 2.



*College of
Physicians and Surgeons
of Saskatchewan*

101 – 2174 Airport Drive
SASKATOON SK S7L 6M6

Business: (306) 244-7355
Fax: General (306) 244-0090
Fax: Dr. K. Shaw (306) 244-2600
Email: cpssinfo@cps.sk.ca
www.cps.sk.ca

REGISTRAR
KAREN SHAW, M.D.

PERSONAL AND CONFIDENTIAL

22 November, 2021

Mr. H. Zhu

[REDACTED]

Mr. Zhu:

At the September 2021 meeting of the Council of the College of Physicians and Surgeons of Saskatchewan, you admitted that you are guilty of unprofessional conduct.

You 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 paragraphs 31 and/or 32 and/or 33 of bylaw 7.1, and/or bylaw 8.1(b)(viii), of the Regulatory Bylaws of the College of Physicians and Surgeons of Saskatchewan.

This unprofessional conduct pertains to your clinical clerkship during the years 2017 to 2019, when you collected documents and copies of documents containing personal information and personal health information of hundreds of individuals. You retained the said documents in your possession, failing to exercise due diligence to ensure the documents were disposed of in an appropriate and secure manner.

Mr. Huangrui (Richard) Zhu you are hereby formally reprimanded by the Council of the College of Physicians and Surgeons of Saskatchewan.

Continued.....

***To serve the public by regulating the practice of medicine
and guiding the profession to achieve the highest standards of care***

Patient confidentiality remains a cornerstone in the practice of medicine and should never be taken lightly. It is incumbent upon all physicians to protect their patient's information and any public breach of patient confidentiality will severely undermine the public's confidence in physicians and the healthcare system. This is a responsibility that should never be taken lightly.

Your misconduct has directly impacted the lives of hundreds of patients and it is the fervent desire of this Council that you will reflect on your behaviour so that such deficiencies will never be repeated as you progress with your medical career.

Council of the College of Physicians and Surgeons of Saskatchewan

**In the Matter of a Penalty Hearing before the
Council of the College of Physicians and Surgeons of Saskatchewan
and Mr. Huangrui (Richard) Zhu
September 18, 2021**

Summary of the Decision

Mr. Zhu appeared before the Council for a penalty hearing on September 18, 2021. Mr. Zhu was not represented by legal counsel. Ms. Sheila Torrance presented the penalty position of the Registrar's Office.

Mr. Zhu admitted to unprofessional conduct in the charge laid by the Executive Committee. The conduct which he admitted was collecting and copying documents in the course of his clerkship, that contained the personal information and personal health information of numerous patients that he dealt with, retaining those documents without redacting the personally identifying information, and failing to exercise due diligence to ensure the documents were disposed of in a secure and appropriate manner. Given that Mr. Zhu had provided the College with an undertaking related to his handling of personal health information while licensed as an undergraduate medical student, and the fact that he had completed an ethics course, the penalty order included a reprimand and the requirement to pay costs.

The charge admitted by Mr. Zhu

Mr. Zhu signed an admission which stated:

*I, Mr. Huangrui (Richard) Zhu, pursuant to section 49 of **The Medical Profession Act, 1981**, admit that I am guilty of unbecoming, improper, unprofessional or discreditable conduct as set out in the charge laid by the Executive Committee of the College of Physicians and Surgeons of Saskatchewan which charge states:*

*The Executive Committee of the College of Physicians and Surgeons directs that, pursuant to section 47.5 of **The Medical Profession Act, 1981**, the Discipline Committee hear the following charge against Mr. Huangrui (Richard) Zhu:*

*You Mr. Huangrui (Richard) Zhu 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 paragraphs 31 and/or 32 and/or 33 of bylaw 7.1, and/or bylaw 8.1(b)(viii), of the Regulatory Bylaws of the College of Physicians and Surgeons of Saskatchewan, particulars whereof are that during the years 2017 to 2019, you collected documents and copies of documents containing personal information and personal health information of numerous other individuals, you retained those documents in your possession, and you failed to exercise due diligence to ensure the*

documents were disposed of in an appropriate and secure manner. The evidence that will be led in support of this charge will include some or all of the following:

- a. In the course of your clerkship in Saskatoon and Regina in 2017 to 2019, you collected and copied various medical records, patient lists, appointments logs, etc. of patients that you dealt with that contained personal information and personal health information.*
- b. You retained those documents in your residence(s), and did not redact those documents for personally identifying information.*
- c. In or about August 2019, you placed numerous documents containing the personal information and personal health information of other individuals in a plastic bag.*
- d. That plastic bag was left outside your apartment building in Regina, Saskatchewan.*
- e. You failed to take appropriate care to ensure the documents in the bag were disposed of in a secure and appropriate manner.*

Agreed Statement of Facts

Mr. Zhu and the Registrar's Office provided an agreed statement of facts, which stated:

Agreed Statement of Facts

Mr. Zhu and the Registrar's Office of the College of Physicians and Surgeons of Saskatchewan ("CPSS" or the "College") agree to the following facts to be considered at the penalty hearing of Mr. Zhu without further proof. With respect to the information contained in paragraph 3, the College is not able to confirm or deny the information but accepts it for the purposes of the penalty hearing.

- 1) Mr. Zhu was initially licensed by the CPSS as a medical student in 2014 and was licensed as a clerk starting in 2017.
- 2) In the course of his clerkship in Saskatoon and Regina between 2017 and 2019, Mr. Zhu collected and copied various medical records, patient lists, appointment logs, etc. that contained personal information and personal health information.
- 3) Mr. Zhu believed at the time that he was entitled to collect this information for the purposes of his education. He did not know any of the patients personally.
- 4) Mr. Zhu retained these documents in his residence.
- 5) He did not redact the documents for personally identifying information.
- 6) Mr. Zhu failed to take appropriate care to ensure the documents were disposed of in a secure and appropriate manner.
- 7) As a result of his failure to ensure the proper disposition of the documents, a plastic garbage bag containing numerous documents with personal information and personal health

information of the individuals was located near the dumpster or recycling bin behind the apartment building in which Mr. Zhu lived in Regina.

- 8) The privacy office of the Saskatchewan Health Authority catalogued the documents that were contained in the plastic bag, and determined that the documents identified 786 individual patients. The SHA notified all patients by letter. At least 131 patients telephoned the SHA privacy office as a result.
- 9) Mr. Zhu was suspended from clinical duties by the College of Medicine on September 20, 2019.
- 10) The College of Medicine held an Academic Misconduct Hearing on November 5, 2019 relating to the abandonment of health records. The Professionalism Panel found that Mr. Zhu engaged in professional misconduct and directed that he repeat the entirety of his core clerkship with no credit given for core rotations completed as of November 5, 2019. In addition, a number of other requirements and restrictions were imposed.
- 11) This decision was appealed to the Appeal Board, but the appeal was dismissed.
- 12) The sanctions imposed on Mr. Zhu by the College of Medicine include the following:
 - a. A record of the hearing and the decision of the Professionalism Panel will be documented on Mr. Zhu's Medical Student Performance Record (MSPR);
 - b. Mr. Zhu must repeat the entirety of his core clerkship with no credit given for those rotations completed as of November 5, 2019.
 - c. Mr. Zhu was to successfully complete an in-person medical ethics course within 6 months. The course was to be external to the University of Saskatchewan and was to be confirmed acceptable to the Chair of the committee prior to enrollment.
 - d. Mr. Zhu is specifically prohibited from removing from the appropriate clinic, ward or filed location components of any medical record under the trusteeship of the SHA or its medical staff. He is prohibited from making any photocopies or digital copies of any component of any medical record for any purpose. He is prohibited from printing any component of any medical record from digital or online sources; this includes lists of patients on clinical services with which Mr. Zhu is associated as a component of training. Mr. Zhu is prohibited from possessing any medical record that is not his own personal medical record, or a record for which he is the established trustee under the terms of *The Health Information Protection Act*.
 - e. Mr. Zhu's remaining clinical education at the University of Saskatchewan is conditional on his use of a daily log regarding clinic or ward patient lists. Upon initiation of all clinical rotations, Mr. Zhu is responsible to disclose to his attending staff physician that he may not print patient lists or obtain such lists from another undergraduate medical student. Mr. Zhu will require all patient lists, deemed essential to the completion of his clinical duties, be provided to him by a resident or staff physician involved with the care of mutual patients. The staff or resident physician providing Mr. Zhu with patient lists will be asked to initial Mr. Zhu's daily log. At the end of each clinic day or shift, Mr. Zhu will return his patient list

to either a resident or staff physician on the same clinical service and have his log initialed to confirm such. The daily log is to be audited by the Associate Dean of Undergraduate Medical Education or their designate upon the completion of each clinical rotation of the core clerkship.

- 13) The College Executive Committee directed an investigation by a preliminary inquiry committee (PIC). Mr. Zhu cooperated fully with the College investigation.
- 14) Upon reviewing the PIC report, the College Council laid 3 charges of unprofessional conduct against Mr. Zhu at its meeting on November 21, 2020. After the Council considered proposed amended charges at its June 2021 meeting, the Executive Committee, at its meeting on July 13, 2021, rescinded the Council's previous resolution and substituted a resolution containing a single charge.
- 15) On or about August 17, 2021, Mr. Zhu provided a signed admission of the above-noted charge.
- 16) On or about May 1, 2021, Mr. Zhu completed the PBI Education program "Medical Ethics and Professionalism." The Certificate of Completion is attached.
- 17) In early August 2021 after completing an orientation period and the above-noted ethics course, Mr. Zhu formally returned to clinical duties in his clerkship. He has been assigned to year 3, Class of 2023.

Points at Issue

Both parties have come to agreement regarding nearly all elements of the penalty, with the exception of costs. Due to this lack of agreement, Council has been asked to present reasons for its decision. At issue as well, is that a concurrent disciplinary process which was completed by the University of Saskatchewan College of Medicine Professionalism Panel, which had imposed its own penalties. Council will need to reconcile these two independent processes of the Professionalism Panel and the CPSS, to insure that, in totality, the penalty remains appropriate. In addition, Council has also been asked to review the length of time to complete payment of his fines, as Mr. Zhu has presented evidence that he does not have the financial resources to fulfill this obligation at this time.

Documents under consideration

- Informational document 166_21 – "Mr. H. Zhu - Penalty Hearing - Submissions on behalf of the Registrar's Office"
- Informational document 188_21 – "Mr. H. Zhu - Penalty Hearing - Submissions from Mr. Zhu"

Position of the Registrar's Office on Penalty

Verbal and written arguments were presented by Ms. Torrance on behalf of the Registrar's Office. The Registrar's Office suggested the following penalties:

- 1)A reprimand in the form directed by the Council;
- 2)A requirement to pay costs in the amount of \$8846.62.

The Registrar's Office also asked that Council may wish to comment on whether a suspension would have been appropriate, had Mr. Zhu not been suspended from his medical education for nearly 2 years.

The Registrar's Office has submitted case law presentations that, while not entirely equivalent to the facts of this case, show suspensions equivalent to 3 to 5 months. Ms. Torrance stated that Mr. Zhu has been suspended since September 2019, which would place the effective suspension at, at least 2 years.

Other factors that the Registrar's Office submitted in determining appropriate penalty are summarized here as:

- **The nature and gravity of the proven allegations** - A large number of patients were affected by this breach of confidentiality.
- **The age of the offending physician** - Dr. Zhu is in the early part of his medical education.
- **General and specific deterrence** - The significant nature of the incident, signals the need for penalties to be consistent with its grave nature.
- **Length of time since the misconduct** - Mr. Zhu. Has been suspended from his education for 2 years.
- **Ensuring that the penalty will, as mandated by s. 19.1 of the Act, protect the public and ensure the safe and proper practice of medicine** - The restrictions imposed by the Professionalism Panel will ensure that Mr. Zhu upholds the sanctity of personal health information.
- **The need to maintain the public's confidence in the integrity of the College's ability to properly supervise the professional conduct of its members** - This penalty demonstrates to the public and the profession the serious nature of this conduct.
- **Ensuring that the penalty imposed is not disparate with the penalties previously imposed in this jurisdiction in particular, and in other jurisdictions in general, for the same or similar act of misconduct** - The case law supports suspensions of between 3 to 5 months and Mr. Zhu has already served nearly 2 years due to his educational suspension.

The Registrar's Office also submitted that a mitigating factor is that Mr. Zhu has admitted to the charge, minimizing the cost to the CPSS and inconvenience to the witnesses. They also submitted that there was no evidence, that Mr. Zhu deliberately discarded the personal health information inappropriately. Finally, it is appropriate for registrants who engage in unprofessional conduct to bear the costs associated with the investigation, as the only alternative is to have the costs borne by the membership at large.

Position of Mr. Zhu on Penalty

Council reviewed the information submitted by Mr. Zhu. Mr. Zhu submitted the following factors he wish to have considered, in its deliberations.

- He submitted financial documents to support that he was not employed, nor was he receiving any income during his suspension from his education. Documents provided include tax records, bank records as well as correspondence from the Saskatchewan Ministry of Health.
- Mr. Zhu also submitted that as he returns to his medical education, he will experience a further financial burden from tuition and living expenses.
- He also states that due to the fact that he hasn't had CMPA support he has accumulated significant legal fees.
- He has also had to bear the costs of the ethics course he has taken.
- He will not be receiving the Clerkship Stipend for the completion of his medical education, as he has already received the full disbursement.
- He asks that Council consider in its deliberations, that he will not have stable employment until at least 2023, upon completion of his medical education.

Decision of Council

The Council acknowledges that it has received Mr. Zhu's undertaking related to his handling of personal health information, while licensed as an undergraduate medical student, as well as the certificate evidencing his completion of an ethics course as directed by the College of Medicine Professionalism Panel. That undertaking and certificate provide the basis for the penalty order that follows.

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Reasons for Decision

The Council focused deliberations the following aspects of the case:

1. The format of the reprimand, whether it be in written or in person format.
2. Whether an additional suspension would be appropriate given that Mr. Zhu has already served an effective 2 year suspension from his educational activities.
3. The amount of costs that would be appropriate to impose, given Mr. Zhu's current financial situation.
4. The time that Mr. Zhu will be given to pay in full costs of the investigation, given his current financial situation.
5. The fact that the undertaking provided by the Professionalism Panel, fulfilled what the Council felt was critical to protect the public.

With regards to the format of the reprimand, Council decided that a written reprimand was appropriate.

In the matter of suspension, Council agreed with the Registrar's Office's submission, that Mr. Zhu has not been able to participate in any educational opportunities for 2 years. As the provided case law reveals, a 3 to 5 month penalty would be appropriate. Council feels that an additional suspension would be overly punitive given the time already served.

With regards to the costs in the amount \$8846.62, Council is of the opinion that these costs reflect a reasonable accounting of the actual costs borne by the CPSS, in this matter. It is considered that while these costs are high for a medical student to afford, it is important that the financial burden of the investigation not be placed upon the membership of the College, including its medical students and physicians.

Council recognizes that given the information provided by Mr. Zhu, he does not currently have the financial resources to complete payment of the fine, nor is he expected to obtain those resources, until at least he has completed his medical education. Given this information, Council will allow Mr. Zhu up to 5 years to complete his payment.

Finally, Council wishes to stress the importance of the undertaking directed by the University of Saskatchewan College of Medicine Professionalism Panel. Council recognizes that Mr. Zhu has completed the Medical Ethics and Professionalism Course on May 1, 2021 from the California, Irvine School of Medicine. We feel that it is an acceptable format for Mr. Zhu's education. Council also reviewed the elements of the undertaking related to his usage of personal health information. We note that he has undertaken to not make any photocopies or digital copies of any component of the medical record; to not print any component of the medical record form digital or online sources; he will not possess any medical record, that is not his own or for which he is the trustee; that he will complete a daily log regarding patient lists; that he must disclose to his attending staff these restrictions; that all patient files deemed essential to his clinical duties be provided by the resident or staff physician, and that he return them at the end of the day; the logs of compliance with these measures will be reviewed by the Associate Dean of Undergraduate Medical Education. Council feels that this is an appropriate undertaking, in order to fulfill its mandate to protect the public.

Accepted by the Council of the College of Physicians & Surgeons of Saskatchewan:
20 November, 2021