



## EXECUTIVE SUMMARY

of the

**13 & 14 SEPTEMBER, 2019 COUNCIL MEETING**

### **COLLEGE OF PHYSICIANS AND SURGEONS OF SASKATCHEWAN**

The Council of the College of Physicians and Surgeons of Saskatchewan operates under an explicit set of governance policies. It strives to make its work as transparent as possible to the medical profession and to the general public.

Those portions of Council's deliberations that are not confidential are open to observation by any person subject to space availability in the meeting room.

At the conclusion of each Council meeting an Executive Summary of the meeting is widely distributed to the district medical associations, related organizations and the public media. This Executive Summary provides a brief overview of issues discussed, decisions made, and/or actions taken by the Council. If any person wishes more detailed information about any of the issues which are not subject to confidentiality constraints, these can be obtained by contacting Ms. Sue Waddington, Executive Assistant to the Registrar, at 101 – 2174 Airport Drive, Saskatoon, Saskatchewan, S7L 6M6, phone (306) 244 7355, Fax (306) 244 2600, or email [OfficeOfTheRegistrar@cps.sk.ca](mailto:OfficeOfTheRegistrar@cps.sk.ca).

1. Council acknowledged that the land on which we gather is Treaty 6 Territory, the traditional territory and home of the Cree, Dakota, Saulteaux and Metis Nations. We would like to affirm our relationship with one another now and for the future, and our role in guiding the profession to achieve the highest standards of care to benefit all people in this territory equally.
2. Council reviewed the Minutes from the Friday 21 and Saturday 22 June, 2019 Council meeting and approved the minutes as presented.
3. Council received a report on the actions taken in relation to the "For Action Items" from the previous meeting.
4. Council reviewed and discussed Monitoring Reports from the Registrar with respect to:
  - (a) The Registrar's advancement of Council's END – 5 – Medical Profession Prepared for the Future;
  - (b) The Registrar's Compliance with Council's Executive Limitation Policies pertaining to:
    - (i) EL – 3 – Financial Planning; and

- (ii) EL – 4 – Financial Condition; and
  - (iii) EL – 5 – Asset Protection; and
  - (iv) EL – 8 – Compensation and Benefits.
5. Council received a report on the strategic plan proposal and constituted a working group consisting of Dr. Brian Brownbridge, Dr. Oladapo Mabadeje, Dr. Olawale (Franklin) Igbekoyi and Mr. Lionel Chabot. The Working Group will also include several staff members.
  6. Council received an update from the working group tasked to provide recommendations related to managing physicians affected with blood borne viruses and the health-related questions which the College should ask physicians. Council supported the work to date and emphasised the importance of collaboration with the Saskatchewan Health Authority, the College of Medicine and the Saskatchewan Physician Health Program. The committee will continue to refine its work and bring back its recommendations to Council at the next meeting.
  7. Council received a verbal update on the working group's discussion about mandatory use of PIP/education/prescription forgeries. The Chair advised the Council that the committee will meet with the SMA, the Ministry of Health, eHealth and PIP to move towards identifying and resolving the IT issues with the PIP program. This will be completed before the working group tackles the questions regards mandatory use and education and the prevention of forgeries.
  8. Council received a presentation from Dr. Kevin wâsakâyâsiw Lewis who is a Plains Cree instructor, researcher and writer. Dr. Lewis has been working with the community schools and promoting land and language based education and is the founder of the [kâniyâsihk Culture Camps](#), a non-profit organization focused on holistic community well-being and co-developer of Land-Based Cree Immersion School kâ-nêyâsihk mîkiwâhpa. Dr. Lewis is from the Ministikwan Lake Cree Nation in Treaty 6 Territory. Dr. Kevin Lewis provided an overview of the First Nations Treaties and other issues related to indigenous persons.
  9. Council received an update from the Working Group on Telemedicine/Virtual Medicine Standards, approved the draft policy in principle, and directed the staff to send the draft out for consultation.
  10. Council received a report from the Working Group on Physician Sexual Misconduct. Council reviewed the group's work to date and approved draft bylaw changes in principle for the purpose of consulting with stakeholders.
  11. Council adopted the 2018 CMA Code of Ethics and Professionalism with some adaptations that will be noted in italics in the document. Bylaw 7.1 was updated to include the new Code of Ethics.
  12. Council reviewed proposed amendments to Bylaw 9.1 and Conflict of Interest Guidelines and adopted the changes to the bylaw which were necessitated by the adoption of the Sale of Products by Physicians Policy. The Conflict of Interest Guideline was also revised to reflect the policy pertaining to the Sale of Products by Physicians. In addition, the newly adopted 2018 CMA Code of Ethics and Professionalism is included in the guiding ethical principles in the Conflict of Interest Guideline. Staff was directed to

update College policies which currently refer to the Code of Ethics 2004 to refer to the Code of Ethics and Professionalism.

13. Council received a report from Ms. Sheila Torrance on behalf of the committee appointed to create policy on Uninsured Services. Council received the stakeholder feedback and the revised policy for consideration. The amendments to the policy included adding clarification to the definition of insured services, adding a reference to certain telemedicine services, and removing the reference to medical advice over the phone. It also included reference to *The Patient Choice Medical Imaging Act*. Council adopted the draft policy with a sunset date of 3 years.
14. Council received a verbal update from Mr. Burton O'Soup, Chair of the Truth and Reconciliation Committee. Mr. O'Soup recommended the College consider flying the reconciliation flag and the Metis flag along with the Canadian and provincial flags at the College office during meetings.
15. Council received an update on governance issues by the various working groups. The Working Group on Developing Better Communication with Physicians provided both a verbal and written report and will continue its work. The Working Group on Developing Better Communication with Patients was discussed at the previous Council meeting and they are awaiting further instruction. The Working Group on Developing Expected Competencies for Councilors and Establishing a Process to Assist with Recruitment continues its work and the Working Group for Developing a Better Method for Councilor Assessment presented an assessment tool which was adopted by Council. Council approved the competency matrix set out in document Info 190\_19. This risk matrix will be completed by Council after the September meeting each year. The Working Group on Additional Standing Committees will provide a report in November.
16. Council received a report from Mr. Bryan Salte with respect to a framework for a risk management approach for regulatory bodies. College staff will continue to gather information to assist Council to determine whether to adopt risk-based management principles.
17. Council confirmed that it would like the educational session for the next Council meeting to address sexual boundary violations. Staff was directed to approach and confirm speakers.
18. Council conducted a penalty hearing pertaining to Dr. A. Ernst. Dr. Ernst was found to have engaged in unprofessional conduct following a hearing before the Discipline Hearing Committee. The charges laid against Dr. Ernst were, as follows:

You Dr. Alfred Ernst are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of section 46(l), and/or 46(p) of **The Medical Profession Act, 1981** S.S.1980-81 c. M-10.1 and bylaw 8.1(b)(iii) of the bylaws of the College of Physicians and Surgeons of Saskatchewan, by excessive billing.

The evidence which will be led in support of this charge will include one or more of the following:

- (a) you caused or permitted excessive billing for your services by claiming first-patient surcharges when the circumstances did not justify the charge;
- (b) you caused or permitted excessive billing by charging code 91 S when the circumstances did not justify the charge; and
- (c) you caused or permitted excessive billing by charging code 881 L when the circumstances did not justify the charge;
- (d) you failed to exercise due diligence to ensure that you billed appropriately for first-patient surcharges, and/or Code 91S and/or code 881L.

The Discipline Hearing Committee found Dr. Ernst guilty of all charges.

Submissions were made by Ms. Rochelle Wempe on behalf of the Registrar's Office and by Mr. Collin Hirschfeld on behalf of Dr. Ernst.

Council imposed the following penalty on Dr. A. Ernst:

*The Council of the College of Physicians and Surgeons imposes the following penalty on Dr. Alfred Ernst pursuant to The Medical Profession Act, 1981 (the "Act"):*

- 1) Pursuant to Section 54(1)(e) of the Act, the Council hereby reprimands Dr. Ernst. The format of that reprimand will be determined by the Council. Dr. Ernst is required to appear before a scheduled meeting of the Council to be present to have the reprimand administered in person.
- 2) Pursuant to Section 54(1)(b) of the Act, the Council hereby suspends Dr. Ernst for a period of two months, commencing October 14, 2019;
- 3) Pursuant to section 54(1)(g) of The Medical Profession Act, 1981, Council requires that that Dr. Ernst successfully complete an ethics course, other than the previously taken "Probe Program" by CPEP, on professionalism to the satisfaction of the Registrar. Such course shall be completed at the first available date. The programs "Medical Ethics, Boundaries and Professionalism" by Case Western Reserve University and "Medical Ethics and Professionalism" by Professional Boundaries Inc., are ethics programs acceptable to the Registrar.
- 4) Pursuant to section 54(1)(i) of the Act, the Council directs Dr. Ernst to pay the costs of and incidental to the investigation and hearing in the amount of \$80,215.72. Such payment shall be made in equal installments over the course of 6 months. The first payment shall be due on October 14, 2019.
- 5) Pursuant to section 54(2) of the Act, if Dr. Ernst should fail to pay the costs as required by paragraph 4, Dr. Ernst' licence shall be suspended until the costs are paid in full.
- 6) Council reserves to itself the right to reconsider and amend the time within which payment of costs must be made set out in paragraph 4 and the right to reconsider and

*amend the requirements of the retraining or education set out in paragraph 3. Such reconsideration shall only be done if requested by Dr. Ernst.*

19. Council conducted a penalty hearing pertaining to Dr. El-fellani Mohammed. Dr. Mohammed was found to have engaged in unprofessional conduct following a hearing before the Discipline Hearing Committee. The charges laid against Dr. Mohammed were as follows:

*You Dr. El-fellani Mohammed 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 8.1(b)(ix) and/or bylaw 8.1(b) (xvi) of the bylaws of the College of Physicians and Surgeons.*

*The evidence that will be led in support of this charge will include some or all of the following:*

- 1) *A female person hereinafter referred to in this charge as Patient #1 was your patient;*
- 2) *On or about the 19th day of July, 2016, Patient #1 attended upon you;*
- 3) *On or about July 19, 2016 you placed your hand, with a stethoscope, down the front of Patient #1's shirt;*
- 4) *You placed the stethoscope on or in close proximity to Patient #1's breast;*
- 5) *You asked Patient #1 to lean forward while you were standing in front of her;*
- 6) *On or about August 18, 2016 you advised Patient #1 that you would conduct a thyroid examination on her;*
- 7) *While conducting that examination you brushed Patient #1's hair from her neck;*
- 8) *On or about August 18, 2016 you conducted a stethoscope examination without an appropriate medical justification;*
- 9) *You placed your hand, with a stethoscope, down the front of Patient #1's shirt;*
- 10) *You placed the stethoscope on or in close proximity to Patient #1's breast;*
- 11) *You asked Patient #1 to lean forward while you were standing in front of her;*
- 12) *On or about August 18, 2016 after your examination of Patient #1, you stood in front of the door to the room with your foot against the door;*
- 13) *On or about August 18, 2016 after your examination of Patient #1, you placed your arm around her lower back and hip;*
- 14) *On or about August 18, 2016 after your examination of Patient #1, you placed your hand on her buttocks;*
- 15) *On or about August 18, 2016, after your examination of Patient #1, you looked at her buttocks.*

*You Dr. El-fellani Mohammed 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 8.1(b)(ix) and/or bylaw 8.1(b) (xvi) of the bylaws of the College of Physicians and Surgeons.*

*The evidence that will be led in support of this charge will include some or all of the following:*

- 1) *A female person hereinafter referred to in this charge as Patient #2 was your patient;*
- 2) *On or about the 4th day of August, 2016, Patient #2 attended upon you;*

- 3) *On or about the 4th day of August, 2016, you repeatedly touched Patient #2's forearm and shoulder;*
- 4) *On or about the 4th day of August, 2016, you placed your hand on her right shin;*
- 5) *On or about the 4th day of August, 2016, you inserted your stethoscope under Patient #2's dress from the top of that dress;*
- 6) *You placed the stethoscope on Patient #2's breast;*
- 7) *On or about August 4, 2016 you touched Patient #2 frequently, or in inappropriate places and/or for extended times;*
- 8) *On or about August 4, 2016 you engaged in inappropriate personal conversation with Patient #2 including asking her about her vacations and her work;*
- 9) *On or about August 4, 2016 you asked Patient #2 if you could visit her at work;*
- 10) *You inappropriately and unnecessarily touched Patient #2 on visits prior to August 4, 2016.*

The Discipline Hearing Committee found Dr. Mohammed guilty of unprofessional conduct in relation to both complainants.

Submissions were made by Mr. Nicholas Cann on behalf of Dr. Mohammed and by Ms. Sheila Torrance on behalf of the Registrar's Office.

Council imposed the following penalty on Dr. El-fellani Mohammed:

*The Council of the College of Physicians and Surgeons of Saskatchewan imposes the following penalty on Dr. El-fellani Mohammed pursuant to The Medical Profession Act, 1981 (the "Act"):*

- 1) *Pursuant to Section 54(1)(e) of the Act, the Council hereby reprimands Dr. Mohammed. The format of that reprimand will be determined by the Council.*
- 2) *Pursuant to Section 54(1)(b) of the Act, the Council hereby suspends Dr. Mohammed for a period of 3 months, commencing at 12:01 a.m. on October 13, 2019 and ending at 11:59 p.m. on January 12, 2020.*
- 3) *Pursuant to Section 54(1)(b) of the Act, the suspension will remain in effect unless prior to the end of the suspension, Dr. Mohammed provides an undertaking to the College, in a form acceptable to the Registrar, that contains the following:*
  - a. *Dr. Mohammed's agreement that he will not have any in-person professional encounters with female patients except in the presence of a female practice monitor;*
  - b. *Dr. Mohammed's agreement that any practice monitor utilized in his office practice will sign an undertaking to the College and that he will provide a copy of that undertaking to the College before that person can act as a practice monitor;*
  - c. *Dr. Mohammed's agreement that any person who acts as a practice monitor in his office practice will comply with the terms of that person's undertaking;*
  - d. *Dr. Mohammed's agreement to unannounced inspections by the College to monitor his compliance with the undertaking and the undertaking provided by his practice monitor(s);*
  - e. *Dr. Mohammed's agreement that he will post a clearly visible sign in his waiting room and each of his examination rooms in his clinic that states he will not see female patients without the presence of a female practice monitor, such sign to be approved in advance by the Registrar;*
  - f. *Dr. Mohammed's agreement that the College can provide a copy of the undertaking to the Saskatchewan Health Authority and to physicians with whom he works;*

- g. A statement that the terms of the undertaking will remain in effect while Dr. Mohammed remains licensed in Saskatchewan unless the Council agrees to an amendment to or a termination of the undertaking.*
- 4) Pursuant to Section 54(1)(g) of the Act, the Council requires that Dr. Mohammed successfully complete a boundaries course acceptable to the Registrar, and provide proof of completion. Such course shall be completed at the first available date, but in any case within six months. The programs "PROBE Ethics & Boundaries Course" by CPEP and "Professional Boundaries and Ethics" by PBI Education are boundaries programs acceptable to the Registrar.*
- 5) Pursuant to Section 54(1)(g) of the Act, the Council requires that Dr. Mohammed successfully complete a course on ethics/professionalism acceptable to the Registrar, and provide proof of completion. Such course shall be completed at the first available date, but in any case within six months. The programs "Medical Ethics, Boundaries and Professionalism" by Case Western Reserve University and "Medical Ethics and Professionalism" by PBI Education are ethics programs acceptable to the Registrar.*
- 6) Pursuant to Section 54(1)(i) of the Act, the Council directs Dr. Mohammed to pay the costs of and incidental to the investigation and hearing in the amount of \$87,467.69. Such amount shall be paid in 13 monthly payments, the first payment to be due on or before October 31, 2019. Twelve payments will be in the amount of \$6,728.28 and the last payment will be in the amount of \$6,728.33. The costs must be paid in full by October 31, 2020.*
- 7) Pursuant to Section 54(2) of the Act, if Dr. Mohammed should fail to pay the costs as required by paragraph 6, Dr. Mohammed's licence shall be suspended until the costs are paid in full.*
- 8) The Council reserves to itself the right to reconsider and amend any of the terms of this penalty order if requested to do so by Dr. Mohammed.*
20. Council considered an application from Dr. M. Horri to be allowed to provide services in long term care homes. Council declined the request. Dr. Horri also requested that he no longer be required to post a sign advising that a chaperone will be present for interactions with female patients. Council also declined this request.
21. Council received a report from Ms. Beckie Wills on the quarterly financial statements for the period end 30 June, 2019.
22. Council received a report from Ms. Wills with respect to the draft 2020 budget. Council considered a request from the Practice Enhancement Program for additional funding and approved the additional funding of \$60,000 to be taken from surplus reserves. Council accepted the draft 2020 budget.
23. Council received a report from the Registrar with respect to the September Reporting of the strategic plan.
24. Council approved general principles in determining whether penalty reprimands will be in writing, or delivered personally with the physician present. The principles can be found in document Info 167\_19.

25. Council set Council meeting dates for 2020, as follows:

January 24 & 25  
March 20 & 21  
June 19 & 20  
September 18 & 19  
November 20 & 21

26. Council considered a draft policy on the Website Terms of Reference and adopted the document as prepared by Ms. Torrance.

27. Council received a report from Ms. Torrance with respect to Performing Office Based Non-Insured Procedures and accepted amendments to the policy.

28. Council appointed Dr. Lara Wesson as a member of the Advisory Committee on Medical Imaging. Dr. Wesson has expertise in ultrasound.

29. Council received a report from Mr. Ed Pas, Director of Registration Services which recommended that Council authorize a provisional licence for the purpose of a summative assessment to a physician who had lost eligibility to challenge the examinations of the Royal College of Physicians and Surgeons of Canada. Council accepted the recommendation.

30. Council approved a request from Dr. T. Chikukwa to reduce the monthly payments on a fine imposed after a previous penalty hearing.

31. Council received a request from Dr. A. Rengarajan for an extension of time to pay costs imposed after a previous penalty hearing. Council amended the previous penalty order to state that he is required to pay the costs in equal monthly payments commencing September 30, 2019. Council also amended the penalty order to extend the time to complete required courses to December 31, 2019.

32. Council received a report from Mr. Salte on the status of bylaws.

33. Council considered an appeal of the Registrar's decision to decline a scope of practice change for Dr. K. Hetherington. Council denied the request for a scope change to provide laser therapy for urinary incontinence.

Draft reasons for the decision to follow.

34. Council received a report from the President on the actions taken by the Executive Committee since the last Council meeting in June.

35. Council reviewed a Preliminary Inquiry Committee report and laid charges of unprofessional conduct against a physician. The charges allege that he engaged in sexual intercourse with and applied physical force to a female without her consent.

Synoptic charges were adopted and will be posted on the College website.

36. Council approved draft reprimands pertaining to Dr. H. Abou El Yazid and Dr. A. Belal pertaining to the penalty imposed at its June meeting. The reprimands will be posted on the College website.
37. Council reviewed and adopted a draft reprimand pertaining to the penalty imposed on Dr. A. Ernst at its June meeting. The reprimand will be posted on the College website, and Dr. Ernst will attend a future Council meeting for the reprimand to be administered in person.
38. Council reviewed and adopted a draft reprimand pertaining to the penalty imposed on Dr. N. Maree at its June meeting. The reprimand will be posted on the College website.
39. Council reviewed and adopted a draft reprimand pertaining to the penalty imposed on Dr. R. Cardoso-Medinilla at its June meeting. The reprimand will be posted on the College website.
40. Council reviewed and adopted draft reasons for the decision pertaining to the penalty imposed on Dr. A. Ernst at its June meeting. The reasons will be posted on the College website.
41. Council reviewed draft reasons for the decision pertaining to the penalty imposed on Dr. R. Cardoso-Medinilla at its June meeting and deferred the decision to the November meeting.
42. Council reviewed and adopted draft reasons for its decision at the June meeting to dismiss an appeal to the Council from a decision of the Quality of Care Advisory Committee.
43. Council received a report from Ms. Sheila Torrance on the Working Group on Alternate Dispute Resolution and Information Sharing between Agencies. Council approved in principle the policy on ADR for the purpose of stakeholder consultation.
44. Council laid charges against a physician. The physician was charged with six charges of unprofessional conduct. The first charge alleges she failed to make appropriate arrangements prior to closing her practice, including providing appropriate notice to her patients and arranging for access to patient records. The second charge alleges that she provided false or misleading information to the College in relation to the pending closure of her clinic. The third charge alleges that she failed to cooperate with an investigation by a Preliminary Inquiry Committee. The fourth charge alleges a pattern of rude, disrespectful and abusive communication with staff members and patients. The fifth charge alleges she directed staff not to conduct certain testing, to falsify records, and to conduct tasks that they were not qualified to perform. The sixth charge alleges that she forged or falsified a letter submitted to Employment Standards in response to a complaint by a former employee.

The charges will be posted on the College website.

45. Council received a report from the Registrar with respect to an appeal to Council from a decision of the Quality of Care Advisory Committee. Council declined the appeal.

Council will adopt reasons for the decision at a future Council meeting. The matter has been referred to the Executive committee for further consideration.

46. Council received a report from Mr. Salte on the status of outstanding discipline files.
47. Council was provided some options with respect to the Quality of Care Appeals Process. Council determined it would continue with its current process as set out in GP-14 and GP-16.
48. Council was apprised of the FMRAC proposal with respect to Pan-Canadian Licensure: an Expedited Form of Registration for physicians who hold credentials to practice in the province to allow them to obtain licensure in another province with minimal administrative burden and a proposal to create a licence portability agreement which aligns with a similar process used by the Federation of Law Societies of Canada. Council was advised that Saskatchewan legislation requires that a physician be licensed in Saskatchewan in order to provide care to a patient located in Saskatchewan. The Registrar stated that the College supports an expedited form of registration for physicians who hold credentials to practice in the province, to allow them to obtain licensure in another province with minimal administrative burden. Council was advised that this is currently the process for telemedicine licensure.