



EXECUTIVE SUMMARY

of the

20 & 21 JANUARY, 2017 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 Robinson, Executive Assistant to the Registrar, at 101 – 2174 Airport Drive, Saskatoon, Saskatchewan, S7L 6M6, phone (306) 667 4625, Fax (306) 244 2600, or email OfficeOfTheRegistrar@cps.sk.ca.

1. Council received a report from the Associate Registrar on the actions taken in relation to the For Action Items from the previous meeting.
2. Council reviewed charges previously laid against a physician and amended those charges by withdrawing the previous charges and laying the following charges:

The Council withdraws the charges against Dr. Alistair Dudley and lays the following charges:

The Council 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 charges against Dr. Alistair Dudley, namely:

- 1) *You Dr. Alistair Dudley 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 of Saskatchewan.*

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

- a) A female person hereinafter referred to in this charge as "Patient Number 1" was your patient;*
- b) During your interaction with Patient Number 1, you made the following comments, or comments to a similar effect:*
 - i. You told Patient Number 1 that the only reason her boyfriend was dating her was so that he could have multiple other girls on the side;*
 - ii. You told Patient Number 1 that as a guy you would look at her and want to have sex with her and you would lie in order to get it;*
 - iii. You told Patient Number 1 that at this stage in her life all she was going to see was "dicks and assholes";*
- c) During your interaction with Patient Number 1, you hugged her.*

2) You Dr. Alistair Dudley 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 of Saskatchewan.

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

- a) A female person hereinafter referred to in this charge as "Patient Number 2" was your patient;*
- b) During your interaction with Patient Number 2, you made the following comments, or comments to a similar effect:*
 - i. You commented that how you looked at her was usually how you look at someone before you kiss them;*
 - ii. You commented that her legs were shaved;*
 - iii. You stated "Nice panties. I like it when girls wear nice panties";*
 - iv. You referred to her as beautiful;*
- c) During your interaction with Patient Number 2, you raised the subject of how many sex partners the typical person has in life. Your comments were unrelated to the reason she consulted you;*
- d) During your interaction with Patient Number 2, you stated that gay people have more sex than straight people because gay people don't have children, or used words with a similar meaning. Your comments were unrelated to the reason she consulted you.*

3) You Dr. Alistair Dudley 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 of Saskatchewan.

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

- a) A female person hereinafter referred to in this charge as "Patient Number 3" was your patient;*

- b) You told Patient Number 3 that you were going to stick your hands down her pants, or used words of similar meaning;
- c) You performed an exam for scoliosis on Patient Number 3 without waiting for a response from her;
- d) You performed an examination for scoliosis on Patient Number 3 without obtaining her consent;
- e) After a brief examination, you advised Patient Number 3 that she had scoliosis;
- f) You made a comment to Patient number 3 about the size of her breasts;
- g) The comment to Patient Number 3 about the size of her breasts was unrelated to the reason for which she consulted you;
- h) You made a comment to Patient number 3 about the size of her waist;
- i) The comment to Patient Number 3 about the size of her waist was unrelated to the reason for which she consulted you;
- j) You squeezed the knee of Patient Number 3 and told her to “just relax” or used words of similar meaning;
- k) You asked Patient Number 3 how old she was, or used words of similar meaning;
- l) You asked Patient Number 3 whether she was married or used words of similar meaning;
- m) Your inquiry about Patient Number 3’s age and marital status were unrelated to the reason for which she consulted you.

4) You Dr. Alistair Dudley 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 7.1, paragraphs 31 and/or 34 of the Code of Ethics contained in bylaw 7.1, and/or bylaw 8.1(b)(ix) of the bylaws of the College of Physicians and Surgeons of Saskatchewan.

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

- a) A female person hereinafter referred to in this charge as “Patient Number 4” was your patient;
- b) You referred to Patient Number 4’s constipation by stating that she was “full of shit” or used words of similar meaning;
- c) You stated to Patient Number 4 that if her condition was causing her that much pain she should never try anal sex, or used words of similar meaning;
- d) Patient Number 4 had not consulted you with respect to any issues of a sexual nature;
- e) When speaking to Patient Number 4 you made reference to your sexual relationship with your wife by stating that her anal canal is a “one way street for her”, or used words of similar meaning;
- f) You asked a member of the staff at the clinic where you were working for the results of the pregnancy test for Patient Number 4 in a manner that your request could be overheard by others;
- g) You failed to take adequate steps to protect the confidentiality of Patient Number 4’s personal health information by failing to take adequate steps to ensure that other persons would not be aware that Patient Number 4 had undergone a pregnancy test.

3. Council reviewed and discussed Monitoring Reports from the Registrar with respect to:

- (a) The Registrar’s Advancement of Council’s End – 1 – The Mission of the College;
- (b) The Registrar’s Advancement of Council’s End – 2 – Public Protection, and
- (c) The Registrar’s Compliance with Council’s Executive Limitation Policies pertaining to:

- (i) EL – 1 – General Executive Constraint;
 - (ii) EL – 2 – Treatment of Staff, and
 - (iii) EL – 6 – Interaction with Members of the Public.
4. Council received a report from the Associate Registrar with respect to combining the Capacity to Consent and Informed Consent documents and considered the addition of a section dealing with patients whose first language is not English. Council established a committee consisting of Dr. Beggs, Dr. Chapelski and Mr. Salte to review options for this prior to consultation with the Saskatchewan Medical Association.
 5. Council reviewed the following policies:
 - (a) Guidelines for the Profession regarding Physician and Health Emergencies**
Council approved this policy without change with a sunset date of 5 years.
 - (b) Job Shadowing**
Council reviewed the current policy and constituted a committee consisting of Dr. Stoneham, Ms. Halland and Dr. Chapelski to review whether this policy should be expanded to include observerships.
 - (c) Unplanned Pregnancy**
Council approved the policy with a small change to reference the College's Conscientious Objection Policy and set a sunset date of 5 years.
 6. Council was provided a verbal update by the Registrar on the status of Safe Prescribing Standards and Guidelines across the country and was made aware that the *Canadian Guidelines on the Safe and Effective Use of Opiates for Chronic Non Cancer Pain* has not yet been released but is expected by the March Council meeting.
 7. Council received a report from the Registrar with respect to the efforts made to improve the program for Prescription Review. Council was advised that the Registrar and the Manager of the PRP have been actively investigating other options and have been involved in discussions with other interested Ministry partners.

Council also received an update on the Pharmaceutical Information Program (PIP) and deferred a decision as to whether to consider the use of PIP as mandatory until Council has been provided a demonstration of the program at its March 2017 Council meeting.
 8. Council was provided a short report on the *Truth and Reconciliation Commission of Canada: Honouring the Truth, Reconciling for the Future*, and was provided additional information to consider regarding the recommendations. Dr. Preston Smith, Dean of the College of Medicine will join the current committee consisting of Mr. Battiste (Chair), Mr. Smith and Mr. de la Gorgendiere. The matter will be reviewed at the March Council meeting.
 9. Council deferred reviewing the recommendations from the Report on the British Columbia Real Estate Commission until the March Council meeting.
 10. Council received a report from the Registrar with respect to the Saskatchewan College of Pharmacy Professionals proposed implementation of the expansion of minor ailments and self-care prescribing by pharmacists. Council directed the Registrar to provide comments

back to the Saskatchewan College of Pharmacy Professionals and to the Ministry of Health with respect to its discussion about patient safety issues including the accuracy of self-diagnosis, in addition to concern with managing the documentation related to these activities, the educational needs of practicing pharmacists involved in this work and the ongoing concern with conflict of interest.

11. Dr. W. Sheikh was granted privileges to perform FUE hair transplantation services at Nu Image Medi Spa.
12. Council received a report from the Director of Registration Services to define the requirements for 5 years of practice supervision for provisionally licensed internationally educated physicians. Council accepted the recommendation that:

If successful in the first year of supervised practice the schedule for subsequent years shall be:

- *Year 2 – Review and report every six months;*
- *Year 3 – Review and report every six months;*
- *Year 4 – Review and report annually;*
- *Year 5 – Review and report at the conclusion of the fifth year.*

Council also agreed that:

The Registrar has the discretion to require reports on a more frequent basis. If more frequent reports are required the supervised practice may include a period of observed practice (practice supervisor on site observing the supervised physician) subject to approval by the Registrar. In special circumstances such as relocation of a physician from another province during the period of supervised practice the Registrar may exercise discretion to require more frequent reports.

13. Council reviewed a report from the Director of Registration Services and determined that a physician should be issued a provisional licence without supervision.
14. Council received a verbal report from the sub-committee for the summative assessment process for specialists and family physicians and agreed to the following recommendations:
 1. *Revise supervised practice to include a minimum of two days of observed practice as a routine component for all practice supervision;*
 2. *Implement a mini 360 degree survey with physician and non-physician peers at the 4th month of practice supervision for the purpose of identifying communication, record keeping and professionalism issues early and direct physicians toward resources to address deficiencies;*
 3. *Implement a supervised practice fee of \$750 to cover the cost of printing, mailing, collating and analyzing the results of the mini 360 degree survey during the supervised practice.*
 4. *Revamp the 360 degree survey forms to require a name/contact information if the individual wishes to submit written comments for consideration by the College.*

5. Advise physicians in supervised practice that many peers experience difficulty in the areas of communication, record keeping (including proper orientation to the EMR/ proper use of templates) and professionalism. Strongly encourage these physicians to complete the programs/courses that may assist them to strengthen their practice in these three areas. Reiterate the fact that summative assessment is a high stakes assessment with NO REMEDIATION.
6. Limit the summative assessment process to one 360 degree survey and one review of charts.
7. Physicians in supervised practice who require a summative assessment to obtain a regular licence and who wish to make a change to location of practice and/or scope of practice to must successfully complete the supervised practice AND summative assessment prior to making a change to location of practice or scope of practice.

These changes will be implemented when resources are developed and available for use.

The committee noted that strengthening the practice supervision was an important first step to improve the summative assessment process.

15. Council received a report from the Registrar with respect to the status of the strategic plan and in particular:

Strategic Priority 2 – Enhance Awareness and Trust of the College
Objective I3 – Strengthen customer service; and

Strategic Priority 3 – Optimise Operational Excellence
Objective P1 – Improve alignment of staff with CPSS priorities;
Objective P2 – Enhance personnel development; and
Objective P3 – Improve work life harmony for staff.

16. Council received an update on the human resource consultants' work in the revision of College staff profiles and in the development of a performance management system.
17. Council received a report from the Associate Registrar with respect to a possible amendment to the policy governance document. Council accepted that on March 29, 2014 it had approved a strategic framework which did not include the End - A Quality Healthcare System. Council had not changed its governance policy to be consistent with the new strategic framework. Council accepted the recommendation to ensure that the current Council policy is consistent with the current strategic framework and adopted the following resolution:

End E-1 of the Council Policy is changed by deleting its contents and substituting the following:

Our Mission and commitment to the people of Saskatchewan ...

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

Our Vision for a preferred future ...

The quality of health care in Saskatchewan will be improved by achieving excellence through (our ends):

- *public protection;*

- *healthy public policy;*
- *medical profession prepared for the future;*
- *professionally led regulation.*

18. Council reviewed a report from the Pharmacy Manager of the Prescription Review Program and Dr. Morris Markentin, the Methadone Program Manager requesting a name change from the Methadone Program to the Opioid Agonist Therapy Program to be more reflective of the therapeutic options available to treat Opioid use disorder. Council accepted the name change.

Council also approved amendments to the four existing Methadone policies which will now be:

- Methadone Prescribing for MAINTAINING (Non-Initiating) Physicians for Pain
- Methadone Prescribing for INITIATING Physicians for Pain
- Methadone Prescribing for MAINTAINING (Non-Initiating) Physicians for Opioid Use Disorder
- Methadone Prescribing for INITIATING Physicians for OPIOID USE DISORDER

19. The College received a request from the Honourable Don Morgan with respect to nominating members to the Ministry's Radiation Health & Safety Committee. The current members Dr. Sheldon Wiebe, Dr. Shazia Mahmood and Dr. Jill Newstead-Angel were all eligible to be re-nominated. Council approved the recommendation to re-nominate the existing members.

20. Council received a verbal report from the Registrar with respect to the plans for a two day educational session in the fall with one day being dedicated to the management of chronic pain and the second day dedicated to the management of addictions. There was some discussion of the potential for a session on medical marijuana. Council provided its support to continue with these plans.

21. Council received a report from the Registrar for information only pertaining to CMPA's discretion based assistance.

22. The Associate Registrar provided a report on the provincial committee's recommendations on Medical Assistance in Dying and noted some possible re-drafts to the College of Physicians and Surgeons' policy. Council approved in principle the provincial recommendations and Council directed that a public consultation be held based on the approval in principle.

23. Council re-appointed a number of members to College committees. They are as follows:

Advisory Committee on Medical Imaging

Dr. I.C. Waddell, Chair
 Dr. D. McIntosh, Co-Chair
 Dr. H. Wells
 Dr. J.P. Hillis
 Ms. Maureen Kral
 Dr. Abdulaziz Almgrahi
 Ms. Bev Kellington

Dr. D. Murthy
Dr. C. Jabs

ECG Committee

Dr. R. Chernoff (Chair)
Dr. J. Akhtar
Dr. P. Schwann

Quality of Care Advisory Committee

Dr. Johann Kriegler (Chair)
Mr. Don Ebert (public member)
Ms. S. Lougheed (public member)
Dr. V. Olsen
Ms. Jill Beatty
Dr. Jonathan Hey

Practice Enhancement Program

Dr. B. Laursen - Co-Chair
Dr. G. Carson - Co-Chair
Dr. Karen Holfeld
Dr. Y. Nataraj
Dr. A. Muller
Dr. I. Radevski

Finance Committee

Dr. M. Sheridan - Chair
Dr. P. Hanekom
Dr. T. Malhotra
Dr. E. Nykiforuk
Dr. S. Kasset
Dr. G. Stoneham

Health Facilities Credentialing Committee

Dr. Jeff Blushke - Chair
Dr. G. R. Morris
Dr. Syed Asif Ali
Dr. Jim Carter
Dr. Alan Beggs

Nominating Committee

Dr. Mark Chapelski (Chair)
Dr. P. Hanekom
Dr. S. Kasset

Legislative Review Committee

Dr. M. Chapelski (Chair)
Dr. Ed Tsoi
Ms. Susan Halland
Dr. A. Beggs
Mr. Ken Smith

Expert Advisory Committee on Blood Borne Communicable Diseases

Dr. T. Diener
Dr. S. Helliard
Dr. K. Williams
Dr. J. Pfeifer
Dr. L. Worobetz

Registration Committee

Dr. G. Stoneham - Chair
Dr. S. Kasset
Dr. E. Tsoi
Mr. G. Mitchell
Dr. M. Chapelski
Dr. A. Saxena

AGM/Educational session Committee

Dr. T. Malhotra - Chair
Dr. J. Carter
Dr. P. Hanekom
Dr. K. Shaw
Ms. S. Halland

Registrar Compensation and Benefits Committee

Dr. T. Malhotra - Chair
Dr. Grant Stoneham
Mr. Ken Smith

24. Council received a report from the Associate Registrar that there was a minor correction required to be made to the registration bylaws that were adopted at the November 2016 meeting. Council approved the addition of the word 'review'.
25. Council received a report on the status of bylaws.
26. Council received a report on actions taken by the Executive Committee since the November 2016 Council meeting.
27. Council received an update on the committees appointed in November to review Alternative Dispute Resolutions (ADR), Reprimands and Publicly Available Information. The Chairs of those committees will report back at the March Council meeting.
28. Council reviewed an appeal to Council and declined the appeal as there was no basis for concluding that the review by the Quality of Care Advisory Committee had violated any of the principles as outlined in GP-14.
29. Council reviewed Preliminary Inquiry Reports on two physicians and directed the Associate Registrar to draft charges of unprofessional conduct for the next meeting of the Executive Committee.
30. Council conducted a penalty hearing pertaining to Dr. A. Dudley who entered a guilty plea to a charge of unprofessional conduct. That charge is set out in Point 2 of this document.

Submissions were made by Mr. Bryan Salte on behalf of the Registrar's Office and Ms. Michelle Ouellette on behalf of Dr. Dudley. The following penalty was imposed by Council:

The Council of the College of Physicians and Surgeons imposes the following penalty on Dr. Alistair Dudley pursuant to *The Medical Profession Act, 1981*:

1) Pursuant to Section 54(1)(b) of *The Medical Professional Act, 1981*, the Council hereby reprimands Dr. Dudley. The format of said reprimand to be written by the President;

2) Pursuant to Section 54(1)(b) of *The Medical Profession Act, 1981*, the Council hereby suspends Dr. Dudley for a period of 4 months commencing on a date to be chosen by Dr. Dudley but not later than February 21, 2017. If Dr. Dudley does not choose an earlier date than February 21, 2017 his suspension will begin at 12:01 a.m. on February 21, 2017;

3) Pursuant to Section 54(1)(b) of *The Medical Profession Act, 1981*, the suspension will remain in effect until Dr. Dudley provides an undertaking to the College, in a form acceptable to the Registrar, that contains the following:

a) Dr. Dudley's agreement that he will establish a relationship with a mentor, who is approved by the Registrar, and will meet with the mentor on a regular basis, not less than once per month, to review the concept of "slippery slopes" in boundary violations, stresses of practice, and maintaining the integrity of professional boundaries with patients. The undertaking will contain a statement that the Registrar may authorize Dr. Dudley to meet less frequently than monthly and may release Dr. Dudley from the requirement that he maintain a relationship with a mentor;

b) Dr. Dudley's agreement that he will immediately advise the College if his relationship with the mentor ends, or if he is unable to meet the requirements of paragraph (a);

c) Dr. Dudley's agreement that he irrevocably authorizes a mentor to provide reports to the College on such frequency as the Registrar may require;

d) Dr. Dudley's agreement that he will be responsible for all costs associated with the mentor;

e) Dr. Dudley's agreement that he will actively participate with the Physician Health Program of the Saskatchewan Medical Association and his agreement that he will follow the recommendations of the Physician Health Program;

f) Dr. Dudley's agreement that if the Physician Health Program recommends an ADHD coach or couples counselling, or counselling in relation to trauma intervention, he will follow those recommendations;

g) Dr. Dudley's agreement that he will cooperate with the Physician Health Program in completing an assessment to determine whether, in the opinion of the program, a Substance Abuse Subtle Screening Inventory (SASSI) is necessary, and to assess whether Dr. Dudley should be subject to monitoring in relation to his use of alcohol;

h) Dr. Dudley's agreement that if the Physician Health Program recommends monitoring in relation to Dr. Dudley's use of alcohol, he will comply with that monitoring;

i) Dr. Dudley's agreement that he will meet with the Physician Health Program, and any additional individuals which the Executive Director of the Physician Health Program may recommend, to complete a review of the boundaries course which he has attended;

j) Dr. Dudley's agreement that he will complete victim empathy statements with respect to the two individuals referenced in the charges of unprofessional conduct with respect to whom he has not yet completed victim empathy statements;

k) Dr. Dudley's agreement he will not have any in-person professional encounters with

- female patients in his office practice, except in the presence of a female chaperone;
- l) Dr. Dudley's agreement that the chaperone shall initial each patient chart for which she is present;
- m) Dr. Dudley's agreement that he will maintain a second written record kept chronologically for each patient. The record will be kept by him and initialled by the chaperone who was present during the encounter. He will ensure that contemporaneously with any encounter or interaction with any female patient in his office, the chaperone will initial the written record in addition to the patient chart;
- n) Dr. Dudley's agreement that he agrees to unannounced inspections by the College to monitor his compliance with the undertaking;
- o) Dr. Dudley'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 that he will not see female patients without the presence of a female chaperone;
- p) Dr. Dudley's agreement that the College can provide a copy of the undertaking to the physicians with whom he currently works at the Idylwyld Medical Centre and the physicians at any other clinic where he works;
- q) A statement that the terms of the undertaking will remain in effect while Dr. Dudley remains licensed in Saskatchewan unless the Council agrees to an amendment to or a termination of the undertaking.

4) Pursuant to section 54(1)(i), the Council directs Dr. Dudley to pay the costs of and incidental to the investigation and hearing in the amount of \$1,500.00. Such payment shall be made in full by February 1, 2017.

5) Pursuant to section 54(2), if Dr. Dudley should fail to pay the costs as required by paragraph 4, Dr. Dudley's licence shall be suspended until the costs are paid in full.

6) The Council reserves to itself the right to amend any of the terms of this penalty decision, upon application by Dr. Dudley. Without limiting the authority of the Council, the Council may release Dr. Dudley from any of the terms of the undertaking required by paragraph 3, may authorize Dr. Dudley to enter into an undertaking on different terms than set out in paragraph 3, or may extend the time for Dr. Dudley to pay the costs required by paragraph 4.

31. Council conducted a penalty hearing on Dr. L. Bhagaloo and Dr. N. Juggernath who entered a guilty plea to a charge of unprofessional conduct. The charges admitted by Dr. Bhagaloo and Dr. Juggernath are as follows:

*The Council 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 Dr. Lanishen Bhagaloo:*

1) You Dr. Lanishen Bhagaloo are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of Section 46(o) of **The Medical Profession Act, 1981** S.S. 1980-81 c. M-10.1.

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

- a) You practised medicine at the Midway Walk-in Healthcare Centre (hereafter called "Midway") in Regina, Saskatchewan until approximately May 27, 2013;
- b) After approximately May 27, 2013 you practised medicine at Gateway Alliance Medical in Regina (hereafter called "Gateway");
- c) In July, 2013 Gateway authorized the mailing of several thousand notices to

- individuals, advising them of the opening of Gateway;
- d) You caused or permitted the notices to be sent;
 - e) You failed to exercise due diligence to ensure that notices to individuals were provided in a manner consistent with legal and/or ethical expectations;
 - f) Some or all of the notices were addressed to individuals who you, or other physicians associated with Gateway, once had a professional relationship;
 - g) Some or all of the names to whom the notices were addressed were obtained as a result of professional services rendered to the individuals to whom the notices were addressed;
 - h) Some or all of the mailing addresses to which the notices were mailed were obtained as a result of professional services rendered to the individuals to whom the notices were addressed;
 - i) The notices contained information not related to the provision of ongoing care or continuity of care to patients, including:
 - i. The names of all the physicians working at Gateway;
 - ii. That allied services available at Gateway included a Chiropractor, Dr. Matheson;
 - iii. That allied services available at Gateway included a podiatrist, Dr. Bagha;
 - iv. That allied services available at Gateway included a psychologist, Dr. Pitirau;
 - v. That allied services available at Gateway included a Nutritional & Wellness Consultant, Daniel Ince;
 - vi. That allied services available at Gateway included a lifestyle coach, Indranie Pilly;
 - vii. That allied services available at Gateway included a Neuropsychologist, Dr. Alfano;
 - viii. That allied services available at Gateway included a Massage Therapist, Colleen Fraser;
 - ix. A notice that Gateway was accepting new patients;
 - x. A notice that walk-ins were available daily.
 - j) Some or all of the information to send the notices was obtained from Midway;
 - k) Information to send the notices which was obtained from Midway was obtained without the consent of Midway;
 - l) Information to send the notices which was obtained from Midway was obtained without the consent of the individuals to whom the notices were addressed;
 - m) The use of the patient information to send the notices occurred without the consent of the patients to whom notices were sent;
 - n) The use of the patient information to send the notices was not consistent with the purpose for which the information was provided by the patients to whom the notices were sent.

*The Council 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 Dr. Nivas Juggernath:*

*1) You Dr. Nivas Juggernath are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of Section 46(o) of **The Medical Profession Act, 1981** S.S. 1980-81 c. M-10.1.*

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

- a) You practised medicine at the Midway Walk-in Healthcare Centre (hereafter called "Midway") in Regina, Saskatchewan until approximately May 27, 2013;
- b) After approximately May 27, 2013 you practised medicine at Gateway Alliance Medical in Regina (hereafter called "Gateway");
- c) In July, 2013 Gateway authorized the mailing of several thousand notices to individuals, advising them of the opening of Gateway;
- d) You caused or permitted the notices to be sent;
- e) You failed to exercise due diligence to ensure that notices to individuals were provided in a manner consistent with legal and/or ethical expectations;
- f) Some or all of the notices were addressed to individuals who you, or other physicians associated with Gateway, once had a professional relationship;
- g) Some or all of the names to whom the notices were addressed were obtained as a result of professional services rendered to the individuals to whom the notices were addressed;
- h) Some or all of the mailing addresses to which the notices were mailed were obtained as a result of professional services rendered to the individuals to whom the notices were addressed;
- i) The notices contained information not related to the provision of ongoing care or continuity of care to patients, including:
 - i. The names of all the physicians working at Gateway;
 - ii. That allied services available at Gateway included a Chiropractor, Dr. Matheson;
 - iii. That allied services available at Gateway included a podiatrist, Dr. Bagha;
 - iv. That allied services available at Gateway included a psychologist, Dr. Pitirau;
 - v. That allied services available at Gateway included a Nutritional & Wellness Consultant, Daniel Ince;
 - vi. That allied services available at Gateway included a lifestyle coach, Indranie Pilly;
 - vii. That allied services available at Gateway included a Neuropsychologist, Dr. Alfano;
 - viii. That allied services available at Gateway included a Massage Therapist, Colleen Fraser;
 - ix. A notice that Gateway was accepting new patients;
 - x. A notice that walk-ins were available daily.
- j) Some or all of the information to send the notices was obtained from Midway;
- k) Information to send the notices which was obtained from Midway was obtained without the consent of Midway;
- l) Information to send the notices which was obtained from Midway was obtained without the consent of the individuals to whom the notices were addressed;
- m) The use of the patient information to send the notices occurred without the consent of the patients to whom notices were sent;
- n) The use of the patient information to send the notices was not consistent with the purpose for which the information was provided by the patients to whom the notices were sent.

Submissions for a joint recommendation were made by Mr. Bryan Salte on behalf of the Registrar's Office and Mr. David Thera on behalf of Dr. Bhagaloo and Dr. Juggernath.

The following penalty was imposed by Council:

*The Council of the College of Physicians and Surgeons imposes the following penalty on Dr. Lanishen Bhagaloo pursuant to **The Medical Profession Act, 1981**:*

- 1) Pursuant to Section 54(1)(e) of **The Medical Profession Act, 1981**, the Council reprimands Dr. Bhagaloo.
- 2) Pursuant to section 54(1)(i) of **The Medical Profession Act, 1981**, the Council directs Dr. Bhagaloo to pay the costs of and incidental to the investigation and hearing in the amount of \$3,664.00. Such payment shall be made in full by April 21, 2017.
- 3) Pursuant to section 54(2) of **The Medical Profession Act, 1981**, if Dr. Bhagaloo should fail to pay the costs as required by paragraph 2, Dr. Bhagaloo's licence shall be suspended until the costs are paid in full.
- 4) Pursuant to section 54 (1)(g) of **The Medical Profession Act, 1981**, Dr. Bhagaloo is required to take and complete the following retraining or education within a period to be determined by the Registrar:
 - a) The BMJ learning module on confidentiality.
 - b) Review of the resources available on confidentiality through the Canadian Medical Association and the Canadian Medical Protective Association;
- 5) The Council reserves to itself the right to reconsider and amend the time within which payment of costs must be made set out in paragraph 2 and the right to reconsider and amend the requirements of the retraining or education set out in paragraph 4. Such reconsideration shall only be done if requested by Dr. Bhagaloo.

*The Council of the College of Physicians and Surgeons imposes the following penalty on Dr. Nivas Juggernath pursuant to **The Medical Profession Act, 1981**:*

- 1) Pursuant to Section 54(1)(e) of **The Medical Profession Act, 1981**, the Council reprimands Dr. Juggernath.
- 2) Pursuant to section 54(1)(i) of **The Medical Profession Act, 1981**, the Council directs Dr. Juggernath to pay the costs of and incidental to the investigation and hearing in the amount of \$3,664.00. Such payment shall be made in full by April 21, 2017.
- 3) Pursuant to section 54(2) of **The Medical Profession Act, 1981**, if Dr. Juggernath should fail to pay the costs as required by paragraph 2, Dr. Juggernath's licence shall be suspended until the costs are paid in full.
- 4) Pursuant to section 54 (1)(g) of **The Medical Profession Act, 1981**, Dr. Juggernath is required to take and complete the following retraining or education within a period to be determined by the Registrar:
 - a) The BMJ learning module on confidentiality.
 - b) Review of the resources available on confidentiality through the Canadian Medical Association and the Canadian Medical Protective Association;
- 5) The Council reserves to itself the right to reconsider and amend the time within which payment of costs must be made set out in paragraph 2 and the right to reconsider and amend the requirements of the retraining or education set out in paragraph 4. Such reconsideration shall only be done if requested by Dr. Juggernath.

32. Council received a report from the Associate Registrar with respect to the status of the discipline tracker.
33. Council asked the Associate Registrar to prepare a discussion document relating to a process which can be used by Council to determine whether additional information should

be provided to Council in addition to the written Council documents when Council is considering issues before it.

34. Council asked the Associate Registrar to prepare a discussion document related to possible realignment of electoral districts for Council elections when the Provincial Government makes its changes to regional health authorities.