



Dr. Wasim SHEIKH

Council Decision

Date Charge(s) Laid:	June 16, 2018
Outcome Date:	January 22, 2021
Hearing:	January 22, 2021
Disposition:	Reprimand, Suspension, Conditions, Costs

The Council of the College of Physicians and Surgeons imposes the following penalty on Wasim Sheikh pursuant to The Medical Profession Act, 1981 (the “Act”):

- 1) Pursuant to Section 54(1)(e) of the Act, the Council hereby reprimands Dr. Sheikh. The format of that reprimand will be in written format.
- 2) Pursuant to Section 54(1)(b) of the Act, the Council hereby suspends Dr. Sheikh for a period of one month, to commence on a date acceptable to the Registrar, due to the pandemic.
- 3) Pursuant to section 54(1)(g) of The Medical Profession Act, 1981, Council requires that within 6 months Dr. Sheikh successfully complete an ethics course 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, “Probe Program” by CPEP and “Medical Ethics and Professionalism” by Professional Boundaries Inc., are ethics programs acceptable to the Registrar.
- 4) Pursuant to section 54(1)(g) of The Medical Profession Act, 1981, Council requires that within 6 months Dr. Sheikh successfully complete an accredited course on medical recordkeeping, to be approved in advance by the Registrar, and will provide proof of completion. The programs “Medical Record Keeping” by ProBE/CPEP, “Medical Record Keeping” by PACE, “Medical Record Keeping” by PBI, “Medical Record Keeping” by the University of Toronto, and “Medical Record Keeping for Physicians” by the College of Physicians and Surgeons of British Columbia are programs acceptable to the Registrar.
- 5) Pursuant to section 54(1)(i) of the Act, the Council directs Dr. Sheikh to pay the costs of and incidental to the investigation and hearing in the amount of \$28,947.79. Such payment shall be made in full by 22 January, 2022.
- 6) Pursuant to section 54(2) of the Act, if Dr. Sheikh should fail to pay the costs as required by paragraph 4, Dr. Sheikh’s licence shall be suspended until the costs are paid in full.

- 7) Council reserves to itself the right to reconsider and amend the time within which payment of costs must be made set out in paragraph 5 and the right to reconsider and amend the requirements of the retraining or education set out in paragraphs 3 and 4. Such reconsideration shall only be done if requested by Dr. Sheikh.



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REGISTRAR
KAREN SHAW, M.D.

22 March, 2021

Dr. W. Sheikh

[Redacted address block]

Dear Dr. Sheikh,

On January 22, 2021 a hearing was held, during which you pled guilty to unprofessional conduct relating to your care of two patients. The charges related to your inappropriate overbilling for services. Aswell, you failed to appropriately follow up on the results of the pathological specimens that you collected. In addition, you failed to ensure that biopsy specimens were appropriately prepared, sent and received by the designated laboratory. Council also made note of your inadequate record keeping practices.

The Council of the College of Physicians and Surgeons has imposed penalties pursuant to The Medical Professional Act, 1981. These penalties include a suspension of one month, educational courses, payment of costs, as well as a written reprimand.

You, Dr. Wasim Sheikh, having been found guilty of professional misconduct while practicing medicine in the province of Saskatchewan are hereby reprimanded by the Council of the College of Physicians and Surgeons of Saskatchewan.

These charges are very serious and represent a significant departure from acceptable medical practice. Patients have an expectation that their physician will act in keeping with their best interests. The trust they place in us, must be justified. By overbilling for your services, you jeopardized that trust. You also neglected to counsel your patients that these procedures may have been provided under the Medical Services Branch, at no cost to them. By your acts, you caused significant financial loss to be incurred by these patients.

Continued.....

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

Furthermore, the foundation of appropriate care for any biopsy is to arrange for pathological evaluation of the specimen. This ensures that the correct diagnosis is made, and appropriate management and follow up is undertaken. The opportunity to provide this critical information to the patient is now, forever lost.

Council appreciates that you have taken measures to ensure that such events do not recur. We understand that you have, or will be, undertaking courses in ethics and professionalism, as well as medical record keeping. We are also aware that you have made changes to the policy and procedures of your clinic environment to address the root cause of these failures. We expect that these efforts will be effective in helping you avoid further indiscretions.

It is Council's expectation that you reflect on the details of your professional misconduct, and commit to fulfilling your duties more adequately to the care of your patients.

The 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 Dr. Wasim Sheikh.

January 22, 2021

Ms. Brittnee Holliday presenting on behalf of Dr. Sheikh
Ms. Rochelle Wempe presenting on behalf of the Registrar's Office

Reasons for Decision

Introduction and Background

Dr. Wasim Sheikh is a general surgeon with privileges in Weyburn Saskatchewan. He has practised cosmetic surgery in Regina both in the Nu-Image Medi-Spa and more currently as the Medical Director of OMNI Surgery and Anti-Aging Centre.

Dr. Sheikh was the subject of two complaints regarding surgical care provided to patients. The first complaint arose with respect to care provided in 2015 to W.T. The charges were as follows:

1. 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. Wasim Sheikh, namely:

You Dr. Wasim Sheikh 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)(xiv) and/or paragraphs 1, 2, 13, 16, 21, and/or 22 of the Code of Ethics contained in bylaw 7.1 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 one or more of the following:

- a. On or about the 10th day of February, 2015 you attended an individual, hereafter referred to as "W.T" at a facility in Regina Saskatchewan hereafter referred to as "Nu Image"
- b. On or about the 10th day of February, 2015 you performed a surgical procedure on W.T.
- c. W.T. paid Nu Image for the services you performed
- d. You failed to provide W.T. with the information necessary for W.T. to make an informed choice whether to pay for the surgical procedure;
- e. You failed to inform W.T. about the options which may have resulted in the surgical services being paid for by Medical Services Branch;
- f. You caused or permitted W.T. to be charged a fee that was not consistent with The Saskatchewan Medical Care Insurance Act.
- g. You caused or permitted W.T. to be charged a fee that was excessive in relation to the services performed;
- h. You told W.T. that this procedure was not an insured service covered by Medical Services Branch

2. 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. Wasim Sheikh, namely

You Dr. Wasim Sheikh 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 paragraphs 1, 6, 14, 21, and/or 22 of the Code of Ethics contained in bylaw 7.1 of the bylaws 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 one or more of the following:

- a. On or about February 10, 2015 you performed a surgical procedure on W.T.
- b. Following the surgical procedure you sent specimens removed from W.T. to the Regina Qu'Appelle Health Region Pathology Department.
- c. When you sent the specimens, you included the notation "Query basal cell carcinoma. Query squamous cell carcinoma. Query actinic keratosis"
- d. You saw patient W.T. for two follow-up appointments on or about February 18, 2015 and March 18, 2015.
- e. The pathology report dated February 17, 2015 stated, in part, "Overall, there is no definitive evidence of carcinoma or melanocytic lesion. However, the infiltrate raises the differential diagnosis of reactive chronic inflammatory infiltrate versus lymphoproliferative disorder. Because of this, the case will be sent for molecular genetic studies to exclude the latter. Follow-up is advised."
- f. The hemopathology report dated March 10, 2015 stated, in part "'Correlation with clinical, microscopic, and immunophenotypic data is required to determine the significance of the monoclonal T-cell population identified in this study."
- g. The supplemental report dated March 16, 2015 stated, in part: "The morphologic findings raise the suspicion for a T-cell lymphoproliferative disorder which may be primary cutaneous or a systemic process with secondary skin involvement. This should be correlated with clinical and imaging findings."
- h. The supplemental report dated April 28, 2015 stated, in part: "This supplemental report is issued to document discussion with Dr. Wasim Sheikh on this case. As stated in supplemental A report, the presence of a monoclonal T-cell receptor finding suggests either a primary cutaneous T-cell process or a systemic lymphoma affecting skin. This needs clinical correlation and complete workup of the patient."
- i. The report dated May 11, 2015 from the British Columbia Cancer agency stated in part: "highly suggestive of primary cutaneous T cell lymphoma best classified as a folliculotropic variant of mycosis fungoides."
- j. You failed to take appropriate steps to deal with the information contained in those reports.
- k. You failed to report and/or failed to clearly explain the information in those reports to W.T.
- l. At one point you advised W.T. that the biopsy was normal when it was not, and encouraged him to have a "cosmetic" procedure.

3. 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. Wasim Sheikh, namely:

You Dr. Wasim Sheikh 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 paragraphs 1, 2, 6, 14, 15, 16, 21, and/or 22 of the Code of Ethics contained in bylaw 7.1 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 one or more of the following:

- a. In March of 2015 you offered to perform a skin grafting procedure on W.T.
 - b. You advised W.T. that the procedure could be provided but that there would be a cost to him for that skin grafting procedure
 - c. You advised W.T. that the cost for the skin grafting procedure would be \$1,800;
 - d. You failed to provide W.T. with the information necessary for W.T. to make an informed choice whether to pay for the skin grafting procedure;
 - e. You failed to inform W.T. about the options which may have resulted in the skin grafting procedure being paid for by Medical Services Branch;
 - f. In March of 2015 Nu Image was a Non Hospital Treatment Facility within the meaning of bylaw 26.1.
 - g. When you offered to perform the skin grafting procedure you had not been granted privileges pursuant to bylaw 26.1 to provide and/or conduct this procedure.
4. 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. Wasim Sheikh, namely:

You Dr. Wasim Sheikh 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)(vi) and/or paragraphs 7, and/or 52 of the Code of Ethics contained in bylaw 7.1 of the bylaws of the College of Physicians and Surgeons of Saskatchewan ["College"]. The evidence that will be led in support of this charge will include one or more of the following:

- a. On or about April 24, 2015 Nu Image provided a copy of clinic notes for W.T. to another physician, hereafter referred to as "Physician A".
- b. The copy of the clinic notes included chart notes in your handwriting for W.T. dated March 18, 2015.
- c. On or about January 2018 chart notes for W.T. were provided to the preliminary inquiry committee, which included chart notes dated March 18, 2015.
- d. The chart notes dated March 18, 2015 provided to the preliminary inquiry committee differed substantively from those originally provided to Physician A.
- e. The copy of clinic notes for W.T. provided to Physician A did not include a chart note for February 10, 2015.

- f. The chart notes for W.T. provided to the preliminary inquiry committee included a chart note dated January 10, 2015. 30 6
- g. The chart note dated February 10, 2015 which was provided to the preliminary inquiry committee was not prepared reasonably contemporaneously with the date of the chart note.
- h. The chart note March 18, 2015 which was provided to the preliminary inquiry committee was not prepared reasonably contemporaneously with the date of the chart note.
- i. The chart note dated February 10, 2015 which was provided to the preliminary inquiry committee contained inaccurate or misleading information.
- j. The chart note dated March 18, 2015 which was provided to the preliminary inquiry committee contained inaccurate or misleading information.

The second complaint arose with respect to care provided in 2017 to G.B. The charges were as follows:

1. 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. Wasim Sheikh, namely:

You Dr. Wasim Sheikh 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 paragraphs 1, 2, 13, 16, 21, and/or 22 of the Code of Ethics contained in bylaw 7.1 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 one or more of the following:

- a. On or about the 10th day of January, 2017 you attended an individual, hereafter referred to as "G.B." in Swift Current, Saskatchewan.
 - b. On or about the 10th day of January, 2017 you performed a surgical procedure on G.B.
 - c. You charged G.B. a fee for the surgical procedures you performed.
 - d. You charged G.B. a fee of approximately \$900 for the surgical procedures you performed.
 - e. You failed to provide G.B. with the information necessary for G.B. to make an informed choice whether to pay for the surgical procedures.
 - f. You failed to inform G.B. about the options which may have resulted in the surgical services being paid for by Medical Services Branch.
 - g. You caused or permitted G.B. to be charged a fee that was not consistent with The Saskatchewan Medical Care Insurance Act.
 - h. You caused or permitted G.B. to be charged a fee that was excessive in relation to the services performed.
2. 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. Wasim Sheikh, namely:

You Dr. Wasim Sheikh 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) of the bylaws of the College of Physicians and Surgeons of Saskatchewan. 5 The evidence that will be led in support of this charge will include one or more of the following:

- a. You failed to maintain records for your patient, G.B. that meet the requirements of bylaw 23.1 of the College bylaws;
3. 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. Wasim Sheikh, namely:

You Dr. Wasim Sheikh 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 paragraphs 1, 7 and/or 13 of the Code of Ethics contained in bylaw 7.1 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 one or more of the following:

- a. That you failed to ensure biopsy specimens of patient G.B. were appropriately prepared, sent to and received by the appropriate laboratory.
- b. That you represented to patient G.B that biopsy specimens were sent to the appropriate laboratory. 3
- c. That you misrepresented to the College that "specimens were delivered to the Lab on January 11, 2016 and according to my staff at Central Medical Clinic, were left outside the Lab in a basket."

A discipline committee was struck to oversee a contested hearing which was to commence on December 14, 2020. Application on behalf of Dr. Sheikh to adjourn the committee was heard and denied. Subsequently the discipline committee was informed that Dr. Sheikh was willing to admit to the majority of the charges and that the College would not be bringing evidence with respect to the remainder of the charges.

Charges to which Dr. Sheikh was not willing to admit included W.T. charge 4 in its entirety and G.B. charge 3c in its entirety. The Registrar's Office accepted a signed admission to the remaining charges on December 12, 2020.

The proximity of the admission to the planned commencement of the discipline committee did not permit for cancellation and therefore the committee sat on December 16, 2020 and confirmed Dr. Sheikh's guilt as it pertained to the charges admitted.

The confirmed charges were then advanced to the Council for consideration of penalty on January 22, 2021. Written and verbal arguments were presented to the Council on behalf of the Registrar's Office and Dr. Sheikh.

The Decision

The Council of the College of Physicians and Surgeons imposes the following penalty on Wasim Sheikh pursuant to The Medical Profession Act, 1981 (the "Act"):

- 1) Pursuant to Section 54(1)(e) of the Act, the Council hereby reprimands Dr. Sheikh. 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. Sheikh for a period of one month, commencing at a time to be determined by the Registrar in consideration of the current pandemic;
- 3) Pursuant to section 54(1)(g) of The Medical Profession Act, 1981, Council requires that within 6 months Dr. Sheikh successfully complete an ethics course 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, "Probe Program" by CPEP and "Medical Ethics and Professionalism" by Professional Boundaries Inc., are ethics programs acceptable to the Registrar.
- 4) Pursuant to section 54(1)(g) of The Medical Profession Act, 1981, Council requires that within 6 months Dr. Sheikh successfully complete an accredited course on medical recordkeeping, to be approved in advance by the Registrar, and will provide proof of completion. The programs "Medical Record Keeping" by ProBE/CPEP, "Medical Record Keeping" by PACE, "Medical Record Keeping" by PBI, "Medical Record Keeping" by the University of Toronto, and "Medical Record Keeping for Physicians" by the College of Physicians and Surgeons of British Columbia are programs acceptable to the Registrar.
- 5) Pursuant to section 54(1)(i) of the Act, the Council directs Dr. Sheikh to pay the costs of and incidental to the investigation and hearing in the amount of \$28947.79. Such payment shall be made in full by January 21, 2022.
- 6) Pursuant to section 54(2) of the Act, if Dr. Sheikh should fail to pay the costs as required by paragraph 4, Dr. Sheikh's licence shall be suspended until the costs are paid in full.
- 7) Council reserves to itself the right to reconsider and amend the time within which payment of costs must be made set out in paragraph 5 and the right to reconsider and amend the requirements of the retraining or education set out in paragraphs 3 and 4. Such reconsideration shall only be done if requested by Dr. Sheikh.

Information Considered by Council in Establishing Penalty

- 1) Written submissions and arguments brought by the Registrar's Office (Info 29_21)
- 2) Written submissions and arguments brought by Counsel for Dr. Sheikh (Info 37_21)
- 3) Verbal address to Council by Dr. Sheikh

The Position of the Registrar

The Registrar's Office takes the position that care provided to W.T. was unprofessional in three primary areas.

1. Dr. Sheikh claimed that services rendered to W.T. were not insured services.
2. The communication of laboratory results to W.T. was inadequate.

3. W.T. was offered a surgical procedure by Dr. Sheikh that he was not privileged to perform.

The Registrar's Office contends that W.T. sought care at the Nu-Image clinic for treatment of facial lesions which were determined to require biopsy, which is an insured service. The tissue was sent for pathological examination which proved to be complex in that specialized immunohistochemistry and subspecialty interpretation were required to obtain a definitive diagnosis. The Registrar's Office contends that W.T. was told the biopsy results were negative despite having had provisional reporting which included a malignant diagnosis on the differential list of diagnoses.

The Registrar's Office contends that W.T. was subsequently reviewed by Dr. Sheikh and despite an unclear diagnosis was offered surgical excision and skin grafting as one of the management options available to him. This treatment was offered without the benefit of a definitive diagnosis, oncological referral with respect to treatment options, or privileges to perform skin grafting of the face.

Subsequent communications between Dr. Sheikh and consulting dermatologists and oncologists occurred after the excision and skin grafting were offered and costed to W.T. The Registrar's Office opines that offering to excise the lesion and skin graft with costing implies that Dr. Sheikh would perform the procedure himself as no mention of referral to a plastic surgeon was noted in the medical record or in W.T.'s testimony.

The Registrar's Office takes the position that care provided to G.B. was unprofessional in three primary areas.

1. G.B. was billed an excessive amount for his procedure.
2. Record keeping was not maintained to an acceptable minimum standard.
3. Tissue was not sent for definitive pathological diagnostic testing and reporting.

The Registrar's Office contends that G.B. was referred to and attended Dr. Sheikh in his private practise in his capacity as a general surgeon. Dr. Sheikh examined moles and a scar on G.B. and informed her that the moles and scars did not meet the criteria for removal under the funded public health care system, but that these lesions could be removed for cosmetic considerations at the Nu-Image clinic where Dr. Sheikh maintained a cosmetic surgery practise.

Despite an appointment being made at Nu-Image to have the moles and scars removed, G.B. had the procedure done at the Central Medical Clinic in Swift Current where Dr. Sheikh practiced general surgery. G.B. was presented a bill for \$900 which was paid to Dr. Sheikh.

Medical records available do not provide information regarding size or location of the lesions removed which could be used to determine the need for pathology testing based on clinical presentation. Similarly the inadequacy of medical records as they pertain to the moles do not allow for assessment of the appropriate fee codes for lesion removal payable by Medical Services Branch.

The Registrar's Office contends that G.B. understood that the moles would be sent for pathological investigation. She was later informed by Dr. Sheikh that the specimens had not been sent for pathology.

The Registrar's Position on Penalty

The Registrar's Office proposed the following penalty options as appropriate:

1. A reprimand
2. A two month suspension
3. An ethics course
4. A medical record-keeping course
5. Costs initially presented at \$36067.96 but reduced in consideration of written arguments presented on behalf of Dr. Sheikh to a final amount of \$28947.79 which accounts for a 25% reduction in fees for in-house legal counsel and PIC costs pertaining to the initial investigation and laying of charges W.T. 4 and G.B. 3c for which no evidence was brought before the discipline committee.

The Registrar's Office contends Dr. Sheikh took financial advantage of patients who could have reasonably expected to have their lesions managed within the public health care system. Further, there is no evidence to suggest that Dr. Sheikh accepted responsibility for his actions at an early point in these proceedings and that he bears substantial accountability, although not full accountability, for the length of time required to bring this matter to closure and the costs inherent to that lengthy process.

The Registrar's Office believes that a significant suspension is required to satisfy the need for both general and specific deterrence.

The Registrar's Office argued that Dr. Sheikh's admission to the majority of charges does not constitute a mitigating factor as the admission was offered at 'the eleventh hour' as it were and therefore did nothing to bring the matter to a conclusion in a timely fashion.

The Registrar's Office presented the 'Camgoz factors' for consideration of the penalty proposed and opines that the proposed penalty does not offend these principles.

Case Law

The Registrar's Office presented numerous cases to identify how the proposed penalty factors are appropriate. There was a lack of case law that directly matches the circumstances under consideration, however general principles were explored.

Decisions relating to inappropriate billing included:

1. Dr. Alfred Ernst, CPSS – 2019
2. Dr. Tineyi Chikukwa, CPSS – 2018
3. Dr. David Opper, CPSS – 2015
4. Dr. Thomas Chambers, CPSS – 2009

Decisions relating to inappropriate charges to patients included:

1. College of Physicians and Surgeons of Ontario v. Dockrill, 2012 ONCPSD 23
2. College of Physicians and Surgeons of Ontario v. Francis, 2007 ONCPSD 7

No specific case law was presented with respect to obtaining and communicating appropriate laboratory results. No specific case law was presented with respect to offering surgical care outside of an established scope of practice.

The Position of Dr. Sheikh

The Council wished to recognize that both written and verbal arguments brought on behalf of Dr. Sheikh were considered to be very well prepared and presented and therefore compelling.

Counsel for Dr. Sheikh commented on the fact that other than these matters, Dr. Sheikh has enjoyed a long career as a general surgeon which has been otherwise free of disciplinary complaints.

The nature of W.T.'s condition was complex. Counsel contends that W.T. attended Nu-Image for management of his "pimple" lesions and was informed that these could be managed in the public system if referral were made by the family doctor. Subsequently all parties decided on pursuing a cosmetic procedure.

Subsequent follow-up reports communication regarding an inconclusive diagnosis requiring further investigation but an absence of overt malignancy. Options for management discussed included a second opinion, definitive surgical excision and grafting or continued follow-up.

A complex series of pathology results was discussed with a provisional diagnosis of suspicion for T-cell lymphoproliferative disorder. Subsequent to discussion of this provisional diagnosis, the patient was referred by a family physician to dermatology and thereby to oncology. Counsel for Dr. Sheikh contends that referral to the Allan Blair Cancer Centre was made by Dr. Sheikh separately from the referral by Dr. Asiniwasis. Definitive diagnosis was returned as a folliculotropic variant of mycosis fungoides, which on further follow up with dermatology and oncology did not require any active intervention.

Counsel for Dr. Sheikh opines that the offer for surgical excision and skin grafting was offered by Dr. Sheikh as a cosmetic procedure prior to the establishment of a final diagnosis and that had such a procedure occurred, the specimen would have been sent for final diagnosis (Info 37_21). The relative rarity and complexity of W.T.'s case was discussed.

A description of the timeline of these matters demonstrates that as of February 10, 2016 Dr. Sheikh was under the assumption that the W.T. matter was closed with a finding of reasonable care provided by an independent expert.

It was clarified that Dr. Sheikh has been privileged in multiple prior 'health regions' for 'skin grafting (minor).' Further, it was opined that while Dr. Sheikh did discuss skin grafting as an appropriate management for mycosis fungoides, and that while he did not have privileges in Regina for this procedure, he could have either obtained privileges or referred W.T. to a surgeon with such privileges.

Counsel for Dr. Sheikh discussed that subsequent to a complaint alleging he billed the patient inappropriately, he obtained information from MSB which suggested that removal of a scar and benign mole could not be billed to the public system. It was not clear if this information was actually pertaining to W.T. or G.B. as the lesions described match G.B. but the absence of GP referral matches W.T.

With respect to G.B. counsel for Dr. Sheikh contends that G.B. presented for assessment and possible removal of a facial mole and a lower leg mole which had 'just come up and was getting itchy'. Removal of the lesion was determined to be cosmetic rather than

medically indicated by Dr. Sheikh and subsequent removal of the lesions was arranged at Nu-Image.

The subsequent removal of the lesions was performed at Dr. Sheikh's general surgery practice as a matter of convenience to avoid all parties having to travel to Regina and thereby avoid the potential risk of Saskatchewan winter driving conditions.

It was opined that satisfactory follow-up was offered by Dr. Sheikh in Regina. The matter of the missing pathology specimens is blamed on undetermined administrative error on the part of the Central Medical Clinic of Swift Current.

Penalty Position on behalf of Dr. Sheikh

Counsel for Dr. Sheikh proposed the following penalty options as appropriate:

1. A reprimand
2. Educational courses
3. A portion of costs

Counsel for Dr. Sheikh offered several proposed mitigating factors. It was noted that Dr. Sheikh denies knowingly charging excessive amounts for services rendered despite a signed admission to that effect.

It was discussed that all charges were in line with those established by Nu-Image for the procedures offered. It was also discussed that Dr. Sheikh had discussed the matter with his Medical Director and was supported in his decisions by Dr. Bastian.

Counsel for Dr. Sheikh suggested that a significant portion of the investigative and legal preparation time was focussed on charges W.T. 4 and G.B.3c which the College decided not to bring forward evidence on. This is suggested to be a factor in favour of a reduction in costs if applied to penalty. Similarly, the delay in advancing this matter was suggested to be in major part due to the slow progress of transitioning legal counsel assigned to this matter at the College.

Counsel for Dr. Sheikh suggests that the costs proposed in the Registrar's written presentation are punitive and may serve to prevent future defendant physicians from raising a defence.

Written arguments were brought forth regarding *Reid v College of Chiropractors of Ontario, 2016 ONSC 1041* in which Wilson J. presented compelling arguments regarding the potential harm of punitive costs.

No specific verbal arguments were brought forth with respect to reduced costs proposed by counsel for the Registrar's Office during her verbal presentation.

Case law

Counsel for Dr. Sheikh presented the following case law as appropriate in determining penalty with respect to charging fees to patients:

1. Dr. Svitlana Ziarko (formerly Cheshenchuk), CPSS 2020
2. McGrail, CPSO
3. Goldhar, CPSO, 2010

Decisions relating to the proposed suspension included:

1. Dr. Cheshenchuk (now Dr. Ziarko)

Further argument was made relating to the case law presented by the Registrar's Office in that the cases discussed represent misconduct that is suggested to be far more outrageous than that of Dr. Sheikh.

Reasons for the Penalty Decision

Key consideration

After hearing verbal arguments in this matter and with the background of the previously submitted written submissions, the Council was convinced that Dr. Sheikh's conduct in these matters was unprofessional on several levels.

1. Privately billing patients for procedures which should have been paid for within the public health care system.

Dr. Sheikh provided surgical care to both patients which could have been justifiably performed within the public health care system, either by himself or another appropriate specialist. W.T. presented to a cosmetic surgery clinic for the management of lesions which were sufficiently worrisome on initial examination to require biopsy. Regardless of the presenting complaint, when a clinician recognizes that a condition is sufficiently worrisome to require biopsy for pathological diagnosis, this is outside the realm of cosmesis. Biopsy deemed necessary by a physician should have been managed within the public health system. It is incumbent on Dr. Sheikh to either return the patient to a family physician for appropriate referral, manage the problem himself within the public system, or arrange referral to an appropriate specialist who can manage the problem. Dr. Sheikh did not avail himself of these options in W.T.'s case and proceeded to bill the patient analogous private rates for an insured service. He could reasonably have billed for his time, but any private billing whether to Nu-Image or himself for an insured service is by definition excessive.

Arguments suggesting that encouraging biopsy via Nu-Image in an attempt to avoid prolific wait times within the public system were not convincing. Any physician who is concerned about public wait times has the option to call the physician most responsible for the wait time and clarify the urgency of a given case. This absolves the referring physician of blame in the context of a patient waiting for care.

Similar misconduct was demonstrated and admitted to with respect to G.B. In this case excision of moles and a scar was performed in a clinic in which publicly funded health care is delivered. This patient was referred by her general practitioner, had a consultation with Dr. Sheikh and was then counselled toward a cosmetic procedure, when removal of some of the moles would have been considered appropriate in the public system. The referring physician was sufficiently concerned about the time course, growth, appearance and symptomatic itchiness of the moles to easily justify their removal as an insured service. Such diversion of patient care to the private

setting was viewed as avaricious on the part of Dr. Sheikh and not in the best interest of his patient.

Arguments were made that Dr. Sheikh had consented G.B. for a cosmetic procedure and therefore he was justified in removing the lesions in his public clinic as all parties were there anyway. This argument was not accepted by Council. Dr. Sheikh performed a service which would have been insured, he performed this procedure outside the planned non-hospital surgical facility, and he received excessive payment for these services personally. Arguments that he was required to collect \$900 to offset not only his expenses, but the 'tray service' costs of the clinic are not supported by accounting documents and were seen as disingenuous.

2. Failing to adequately inform the patient as to the differential diagnosis as it evolved toward a definitive diagnosis.

It is incumbent on any physician to appropriately follow up on diagnostic tests such as biopsies and to keep patients informed with valid information regarding differential diagnoses. Without such information, it is impossible for a patient to make informed decisions regarding their health. In this case, the Council agrees that the diagnostic process was complicated and required subspecialty input and a series of progressively more complex pathology investigations. That notwithstanding it was clear that W.T. was not adequately informed of the potential for malignant diagnosis at a sufficiently early stage to inform decision making.

3. Offering to perform a surgery for which he did not have privileges and which should have been arranged through the public system.

Dr. Sheikh offered excision and skin grafting as a potential treatment for the lesion in question. This was in advance of a definitive diagnosis, which is unacceptable, particularly when it was evident from the progressive pathology reports that the differential may include malignancy which would not generally be treated by a general surgeon or a cosmetic surgeon, but rather by a plastic surgeon, dermatologist or oncologist. This offered procedure would clearly be considered insured in this context and therefore to offer it as a cosmetic procedure is unethical. It has been argued that Dr. Sheikh does in fact have privileges in several jurisdictions to perform skin grafting. It is generally accepted that skin grafting from the neck to the face is not within the scope of practice of a general surgeon. Peripheral skin grafting may be a routine part of a general surgery practice, particularly in the management of trunk or extremity melanoma. Council was substantially concerned with the fact that Dr. Sheikh did not recognize that skin grafting on the face is most appropriately done by a plastic surgeon.

Arguments were made that Dr. Sheikh offered the skin grafting procedure as a cosmetic procedure with pricing determined by Nu-Image. To suggest that W.T. should assume that Dr. Sheikh would refer him to a privileged surgeon is not reasonable unless expressly stated and documented as such. No such documentation was offered to the PIC and therefore the Council considers it reasonable that W.T. could assume that the surgery offered at that time would be performed within the facility in question by the surgeon discussing the procedure. At

the time the procedure was offered to W.T. Dr. Sheikh did not have privileges from Nu-Image to perform skin grafting, nor did he have comparable privileges with the then Regina Qu'Appelle Health Region as required by CPSS Bylaw 26.1.

4. Record keeping and failure to ensure pathology specimens were appropriately processed.

Both cases demonstrated significant deficiencies in medical record keeping. The College elected not to bring evidence against Dr. Sheikh of dishonesty with respect to his medical records. This does not permit the Council to simply ignore the presented evidence and subsequent admission of guilt with respect to inadequate record keeping.

Similarly, there was substantial investigation regarding the pathology specimens that were not sent on G.B. No evidence was brought to the discipline committee with respect to the veracity of communications or lack of same regarding the biopsies. It was however, clearly understood a major expectation of G.B. and his referring physician in seeking care with Dr. Sheikh was to rule out cutaneous malignancy. The Council recognizes that pathology specimens pass through many hands en-route to a pathologist and that these steps are subject to human error. Unfortunately there was no compelling evidence that suggests that the specimens were in fact ever processed for pathology by, or at the direction of, Dr. Sheikh.

Reprimand

It is the routine practice of Council to reprimand physicians who are found guilty of professional misconduct. In this case a written reprimand was preferable.

Suspension

Council considered the materials presented in written and verbal form. The conduct of Dr. Sheikh was considered to be sufficiently egregious that suspension was felt to be appropriate. The nature of Dr. Sheikh's behavior in avoiding appropriate diversion of these matters to the public system was inexcusable. Consideration of the case law presented and arguments by counsel for the Registrar's Office was not compelling with respect to the proposed two month suspension. While a one month suspension per case may have been appropriate had each case been heard at separate hearings, a total suspension of one month was adopted by Council in the context of the totality principle.

Educational Courses

Council routinely mandates educational courses in an attempt to mitigate against the risk of repeat misconduct in the future. In this matter an ethics course and record keeping course were felt to be most appropriate.

Costs

In the matter of costs, Counsel for Dr. Sheikh argued in favor of a substantial reduction of the costs initially proposed in the written submission of the Registrar's Office. Prior to verbal submissions on behalf of Dr. Sheikh and in response to the written arguments of his

counsel, the Registrar's Office suggested a 25% decrease in costs associated with in house legal fees and PIC fees. This reduction was proposed to account for investigation and preparation fees resulting from charge W.T.4 and G.B.3c. As the Registrar's Office elected not to bring evidence on these two matters, it is reasonable that Dr. Sheikh should not be solely responsible for the costs incurred in these two components of the total charges. Council accepts this reasoning. It is the routine practise of Council to apply the costs of investigation, legal fees and discipline hearings to a physician who is found to be guilty. In this matter Dr. Sheikh admitted his guilt at 'the 11th hour' as it were, and therefore the costs of the discipline hearing were mitigated but not entirely removed as the Discipline Committee still sat. The Council considered reduced costs to be appropriate, but remains resolute in the opinion that the costs should be borne by the physician responsible for the misconduct, not by the profession.

**Accepted by the Council of the College of Physicians and Surgeons of Saskatchewan:
20 March, 2021**