



Dr. Bruce ZIMMERMANN

Council Decision

Date Charge(s) Laid:	February 14, 2023
Charge(s) Amended:	N/A
Outcome Date:	June 7, 2024
Penalty Hearing:	June 7, 2024
Disposition:	Reprimand, Suspension, Conditions, Costs

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

- 1) Pursuant to Section 54(1)(e) of the Act, the Council hereby reprimands Dr. Zimmermann. The format of that reprimand will be in writing.
- 2) Pursuant to Section 54(1)(b) of the Act, the Council hereby suspends Dr. Zimmermann for a period of 6 weeks commencing at 12:01 AM on June 19, 2024;
- 3) Pursuant to Section 54(1)(g) of the Act, the Council requires that Dr. Zimmermann successfully complete an extended ethics course acceptable to the Registrar, and provide proof of completion. Such course shall be completed at the first available date, but in any case on or before March 7, 2025. The programs "Medical Ethics and Professionalism (ME-22 Extended)" by PBI Education (including completion of the Maintenance and Accountability Seminars MAS-12) and "Ethics for Medical Professionals" by PACE with PACE PLUS (extended content) are extended ethics programs acceptable to the Registrar. While any post-course requirements may not be completed by March 7, 2025, Dr. Zimmermann is to apply diligence in completing any such requirements and must then provide proof of successful completion. If Dr. Zimmermann fails to complete the course in the directed timeframe, his licence will be suspended until such time as the course has been successfully completed.
- 4) Pursuant to section 54(1)(i) of the Act, the Council directs Dr. Zimmermann to pay the costs of and incidental to the investigation and hearing in the amount of \$4,537.50. Such payment shall be made in full on or before March 7, 2025.
- 5) Pursuant to section 54(2) of the Act, the Council directs that Dr. Zimmermann's licence shall be suspended if the costs in paragraph 4 are not paid as required and that his licence will remain suspended until the costs are paid in full.
- 6) The Council reserves to itself the right to reconsider and amend any of the terms of this penalty decision, upon application by Dr. Zimmermann. Without limiting the authority of the Council, the Council may amend the time within which the course must be completed or the payment of costs must be made as set out in paragraphs 3 and 4.



101 - 2174 Airport Drive
Saskatoon, SK S7L 6M6
OfficeOfTheRegistrar@cps.sk.ca
cps.sk.ca

Business: (306) 244-7355
Fax: Office of the Registrar (306) 244-2600
Toll Free: 1-800-667-1668

16 September 2024

Dr. B. Zimmermann



Dr. Zimmermann:

At its meeting on June 7, 2024, the Council of the College of Physicians and Surgeons of Saskatchewan accepted your admission of guilt and imposed the following penalty:

You are hereby ordered to pay costs incidental to the investigation, complete an ethics course, are suspended from practice for 6 weeks, and are subject to a written reprimand.

You, Dr. Zimmermann, having been found guilty of unprofessional conduct while practicing medicine in the province of Saskatchewan are hereby reprimanded by the Council of the College of Physicians and Surgeons of Saskatchewan.

This particular charge resulted from you failing to complete two terms of the Council's March 2022 penalty order within the designated timeframe. Your excuse, that you were training for an athletic competition, was not accepted by Council when you requested a retroactive extension after the deadline had already passed. When you recognized that you would be unable to complete the terms of the penalty order within the designated timeframe, you could have easily requested an extension in advance. This extension would have likely been provided.

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Similar to breaches of undertakings, the College considers breaches of a penalty order as an extremely serious matter. They are designed to provide physicians a clear direction on what is required, with no room for confusion, on exactly what the Council's expectations are.

Ensure that in the future you are diligent in completing the requirements that the College places on you. We expect that we will not need to discipline you for this type of issue again.

The Council of the College of Physicians and Surgeons of Saskatchewan

**In the Matter of a Penalty Hearing for Dr. Bruce Zimmermann held before the
Council of the College of Physicians and Surgeons of Saskatchewan**

June 7, 2024

Introduction and Background

On 12 January 2022 Dr. Bruce Zimmermann admitted to three charges of unprofessional conduct. A penalty hearing was held at the Council meeting of 18 March 2022. Among the terms of the penalty decision were the following:

- The requirement to successfully complete a course on medical record-keeping acceptable to the Registrar, and provide proof of completion. This was to be completed at the first available date, but in any case, within 6 months.
- The requirement to successfully complete a course on time management for physicians acceptable to the Registrar. This was also to be completed at the first available date, but in any case, within 6 months.

The aforementioned terms of penalty were due for completion no later than 18 September 2022.

After communications in June and July of 2022 between the Registrar's Office and legal counsel for Dr. Zimmermann alternatives for the time management course were provided as the initial course under consideration was not available. Dr. Zimmermann submitted a modified self-study plan on 23 September 2022, three days after the terms of the penalty were to have been completed. Following the 18 September 2022, the Registrar's Office obtained information confirming that neither the record keeping course nor the time management self-study program had been completed within the time mandated by the penalty order.

As of 18 October 2022, the Registrar's Office had suggested that an application for retroactive extension to the timelines of the penalty order would not be opposed by the Registrar's Office if the outstanding requirements of the penalty had been completed prior to the application being brought before Council.

Dr. Zimmermann failed to complete the totality of outstanding requirements of the penalty order prior to the application being brought before the Council. The Council denied his application and therefore he was subsequently charged by the Executive

Committee with failing to complete two terms of the Council's March 18, 2022 penalty order within the designated timeframe as follows;

You Dr. Bruce Zimmermann 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 particulars whereof are that you failed to comply with the terms of an order from the CPSS Council.

The evidence that will be led in support of the charge will include the following:

- a) You admitted a charge of unprofessional conduct and appeared before the CPSS Council for a penalty hearing on March 18, 2022.*
- b) The Council issued a penalty order on March 18, 2022.*
- c) You failed to complete two terms of the penalty order within the designated timeframe.*

Dr. Zimmermann admitted to this misconduct and legal counsel for both Dr. Zimmermann and the Registrar's Office have negotiated a partial joint submission. Aspects of penalty remaining to be determined include the nature of the reprimand and the payment of costs.

The Joint Recommendation

As outlined above, both legal counsel submitted the following as the appropriate penalty for Council's consideration:

- a) A reprimand in the form directed by the Council
- b) A suspension of Dr. Zimmermann's licence for 6 weeks, commencing at 12:01 AM on June 19, 2024;
- c) A requirement that he successfully complete an extended ethics course within 9 months (on or before March 7, 2025), failing which his licence will be suspended;
- d) A requirement that Dr. Zimmermann pay all or a portion of the costs incurred in the investigation and hearing of this matter, payable on or before March 7, 2025.

The Matter of Costs

The Court of Appeal has provided the Council with a framework for approaching the determination of payment of costs as they pertain to a discipline matter. The ***Abrametz factors*** (*Abrametz v. The Law Society of Saskatchewan*, 2018 SKCA 37) assist Council in the analysis of costs and assist in decision making without a default position as the

primary factor as has been suggested to be the case in past penalty orders. These factors are premised on the following principles:

- 1) Absent a legislative provision to the contrary, costs are not obligatory; rather they are at the discretion of the regulatory body. As noted above, section 54(1) of *The Medical Profession Act, 1981* uses the word "may" which signals that a costs award is permissive and not mandatory.
- 2) The purpose of a costs award is not to indemnify the opposing party (as is typical in civil actions) but to have "the sanctioned member bear the costs of disciplinary proceedings as an aspect of the burden of being a member ... and not visit those expenses on the collective membership." However, as was established in *Abrametz*, the Court of Appeal reiterated that "the burden of membership principle that underpins a costs order does not necessarily mean full indemnification."
- 3) A costs award should not be punitive, nor should it be "so prohibitive as to prevent a member from defending his or her right to practice in the chosen profession, or from being able to dispute misconduct charges."

The Council has long held the position that the membership of the College should not bear primary responsibility for the cost incurred in the discipline of a member found guilty of misconduct. The Council recognizes that this cannot be the sole decision-making consideration in the analysis of costs. In general, the Council does remain convinced that a member found guilty of misconduct should bear some responsibility with respect to the costs incurred in discipline, however the Council concedes that this should be determined in a more intentional case by case manner and may, in fact, be waived entirely if individual circumstances support such a decision. The Council strongly supports that all physicians charged with misconduct should be able to mount a defense without the potential of a cost award being so prohibitive as to prevent the practitioner from pursuing a robust defence.

The specific *Abrametz* factors pertinent to Saskatchewan include the following:

- 1) Whether the costs are so large that the costs are punitive;
- 2) Whether the costs are so large that they are likely to deter a member from raising a legitimate defence;
- 3) The member's financial status;
- 4) A member has an obligation to provide financial information to support a contention that a cost award will impose an undue hardship;
- 5) The regulatory body should provide full supporting material for the amount of costs claimed;

- 6) The regulatory body should provide the individual with an opportunity to respond to the information and respond to the total quantum of costs which may be ordered before costs are imposed;
- 7) The regulatory body should provide reasons for reaching the decision that it made;

In this matter the Registrar's Office presented an accounting of costs totalling \$4,537.50. Counsel opined that the full costs should be included in the penalty based on the absence of any claim of financial hardship on the part of Dr. Zimmermann. Further, this matter is one in a substantial series of discipline matters that have besmirched Dr. Zimmermann's practise and has been subject to past penalty orders including the payment of costs. In this matter, the costs are not prohibitively large.

Counsel for Dr. Zimmerman did not provide written or verbal arguments supporting a reduction in costs, rather suggesting that reduced costs would be appropriate. No specific cost value was presented. Arguments were primarily conciliatory with respect to rebuttal of the assertion of Council's perception of lack of respect on the part of Dr. Zimmermann for Council as articulated in the reasons for our decision to deny his last application.

The Decision

Council adopted the following resolution:

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

1. Pursuant to Section 54(1)(e) of the Act, the Council hereby reprimands Dr. Zimmermann. The format of that reprimand will be in writing.
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Education (including completion of the Maintenance and Accountability Seminars MAS-12) and "Ethics for Medical Professionals" by PACE with PACE PLUS (extended content) are extended ethics programs acceptable to the Registrar. While any post-course requirements may not be completed by March 7, 2025, Dr. Zimmermann is to apply diligence in completing any such requirements and must then provide proof of successful completion. If Dr. Zimmermann fails to complete the course in the directed timeframe, his licence will be suspended until such time as the course has been successfully completed.

4. Pursuant to section 54(1)(i) of the Act, the Council directs Dr. Zimmermann to pay the costs of and incidental to the investigation and hearing in the amount of \$4537.50. Such payment shall be made in full on or before March 7, 2025.
5. Pursuant to section 54(2) of the Act, the Council directs that Dr. Zimmermann's licence shall be suspended if the costs in paragraph 4 are not paid as required and that his licence will remain suspended until the costs are paid in full.
6. The Council reserves to itself the right to reconsider and amend any of the terms of this penalty decision, upon application by Dr. Zimmermann. Without limiting the authority of the Council, the Council may amend the time within which the course must be completed or the payment of costs must be made as set out in paragraphs 3 and 4.

Reasons for Decision

The Council accepted the terms of the joint recommendation.

The Council did not consider that an in-person reprimand would have impact with Dr. Zimmermann and as such ordered the reprimand to be in written format.

The decision to apply costs to Dr. Zimmerman in this penalty decision is based primarily on the fact that Dr. Zimmermann is a repeat offender before Council. Council takes undertakings very seriously and considers the breach of such undertakings to be equally serious. This is more the case when one considers the deliberate decision taken by Dr. Zimmermann to prioritize personal athletic endeavours above the completion of a course mandated by his own undertaking. In this matter, with intention, the Council considers the application of costs to be appropriate as the membership should not bear the cost of disciplining a member who has repeatedly required discipline.

With respect to the matter of costs the Council considered the aforementioned Abrametz factors as outlined:

- 1) Whether the costs are so large that the costs are punitive;
This was not considered to be a punitive figure.
- 2) Whether the costs are so large that they are likely to deter a member from raising a legitimate defence;
Dr. Zimmermann was able to raise a defence as a member of CMPA in good standing. His past penalty orders including costs have permitted him to have context in predicting the size of potential costs given the absence of a PIC or discipline hearing.
- 3) The member's financial status;
Dr. Zimmermann is a working physician with a busy clinical practise. As such he is expected to have access to considerable remuneration for his work.
Dr. Zimmermann has presented neither argument nor evidence of financial hardship.
- 4) A member has an obligation to provide financial information to support a contention that a cost award will impose an undue hardship;
The Council believes it is incumbent on the physician to present such information if contesting costs in whole or in part if they are suggested by the Registrar's Office to be applied to a penalty order or suggested to be appropriate by Council in the absence of suggestion from the Registrar's Office. No such information or argument was presented on behalf of Dr. Zimmermann, other than a passing suggestion of reduced costs.
- 5) The regulatory body should provide full supporting material for the amount of costs claimed;
This information was presented in the written submissions from the Registrar's Office and a detailed accounting is available on request.
- 6) The regulatory body should provide the individual with an opportunity to respond to the information and respond to the total quantum of costs which may be ordered before costs are imposed;
Counsel for Dr. Zimmermann had ample opportunity to review the written submissions from the Registrar's Office. This was a negotiated settlement, and as such, costs could have been a portion of that negotiation. Upon failing to reach a negotiated figure, written or verbal submissions were an option to Dr. Zimmermann.
- 7) The regulatory body should provide reasons for reaching the decision that it made;
Council's decision and the reasons for that decision are articulated herein.

**Accepted by the Council of the College of Physicians & Surgeons of Saskatchewan:
14 September 2024**