



Dr. Ian COWAN

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## Council Decision

<b>Date Charge(s) Laid:</b>	Sept 17, 2016
<b>Outcome Date:</b>	June 16, 2017
<b>Hearing:</b>	Completed
<b>Disposition:</b>	Reprimand, Fine, Costs, Suspension

Council conducted a penalty hearing pertaining to Dr. Ian Cowan. Dr. Cowan entered a guilty plea to a charge of unprofessional conduct. The charge admitted by Dr. Cowan is as follows:

*You Dr. Ian Cowan 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 paragraph 31 of the Code of Ethics.*

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

- a) *You shared a house in Regina, Saskatchewan, with an individual referred to in this charge by the initials U.A.*
- b) *You brought a number of patient charts containing personal health information to the house;*
- c) *You failed to appropriately secure the patient charts in the house;*
- d) *U.A. remained in possession of the home after you left the house;*
- e) *There were a number of patient charts containing personal health information which remained in the house after you no longer lived in the house.*

*You Dr. Ian Cowan 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) *In or about the year 2011 two individuals known to you, identified in this charge by the initials U.A. and B.A., lived in Swift Current;*
- b) *You provided a quantity of marijuana to U.A. and/or B.A. in or about the year 2011;*
- c) *You previously were in a relationship with U.A.*

Submissions were made by Mr. Salte on behalf of the Registrar's Office and Mr. James Korpan on behalf of Dr. Cowan. Council imposed the following penalty:

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

- 1) *Pursuant to Section 54(1)(e) of The Medical Professional Act, 1981, the Council hereby reprimands Dr. Cowan. The format of that reprimand to be determined by the Council;*
- 2) *Pursuant to Section 54(1)(f) of The Medical Professional Act, 1981, the Council hereby imposes a fine of \$2,000 to be paid by no later than 29 September, 2017.*
- 3) *Pursuant to Section 54(1)(b) of The Medical Profession Act, 1981, the Council hereby suspends Dr. Cowan for a period of one month, (held in abeyance provided Dr. Cowan participate in an Ethics Course acceptable to the Registrar, to be completed in a time deemed appropriate by the Registrar).*
- 4) *Pursuant to section 54(1)(i), the Council directs Dr. Cowan to pay the costs of and incidental to the investigation and hearing in the amount of \$10,665.91. Such payment shall be made in full by September 29, 2017.*
- 5) *Pursuant to section 54(2), if Dr. Cowan should fail to pay the costs as required by paragraph 4, Dr. Cowan's licence shall be suspended until the costs are paid in full.*
- 6) *The Council reserves to itself the right to reconsider and amend the time within which payment of costs must be made as set out in paragraph 4. Such reconsideration shall only be done if requested by Dr. Cowan.*

**In The Matter Of The Medical Profession Act, 1981 S.S. 1980-1981 c.  
M-10.1, Penalty Hearing for Dr. Ian Cowan**

Mr. Bryan Salte, Q.C. appearing for the Registrar

Mr. James Korpan Q.C. appearing for Dr. Ian Cowan

On this day June 16, 2017 in Saskatoon Saskatchewan.

**The Charges**

[1] Dr. Cowan pled guilty to the following charges set out below.

*You Dr. Ian Cowan 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 paragraph 31 of the Code of Ethics.*

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

*You shared a house in Regina, Saskatchewan, with an individual referred to in this charge by the initials U.A.*

*You brought a number of patient charts containing personal health information to the house;*

*You failed to appropriately secure the patient charts in the house;*

*U.A. remained in possession of the home after you left the house;*

*There were a number of patient charts containing personal health information which remained in the house after you no longer lived in the house.*

*You Dr. Ian Cowan 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:*

*In or about the year 2011 two individuals known to you, identified in this charge by the initials U.A. and B.A., lived in Swift Current;*

*b) You provided a quantity of marihuana to U.A. and/or B.A. in or about the year 2011;*

*c) You previously were in a relationship with U.A.*

## **The Position of the Registrar's Office**

[2] The Registrar's Office's perspective is that an appropriate penalty for Dr. Cowan is a reprimand, one month suspension, and costs. The Registrar points out that this is not the first finding of unprofessional conduct involving Dr. Cowan. In 2001 he admitted to unprofessional conduct involving the same person as referenced in this admitted charge.

[3] There were aggravating and mitigating factors that the Council was asked to consider. Dr. Cowan's gift of marihuana to the complainant was not prescribed. It could therefore be considered trafficking. Marihuana is still illegal in Canada unless prescribed by a physician. However, marihuana will be decriminalized within the next year. Dr. Cowan is a senior physician in Saskatchewan and after 30 years of practice should be well aware of safe guarding patient health information. The files he brought to his home were easily accessible to others in that household and not secured.

[4] The Registrar cites several cases which were of little help to Council in determining penalty.

## **The Position of Dr. Ian Cowan**

[5] Counsel for Dr. Cowan and Dr. Cowan submit that a reprimand is an appropriate penalty. If costs are to be imposed, then they should not include any cost associated with the penalty hearing. If any further penalty is warranted, then Dr. Cowan submits that a small fine or one day suspension is sufficient.

[6] Dr. Cowan submits that his offences were minor. Marihuana is well on its way to being legalized. This gift should be seen as no different then a gift of a bottle of wine. Dr. Cowan appreciates that marihuana was illegal at the time.

[7] Dr. Cowan submits he did his best to secure the files that he had to remove from the Midway Clinic. The new Gateway Clinic was not ready to be used and was not a secure place at the time of the transfer of files to his house. The files were at his house for less than one month and were transferred as soon as a secure room was available at the Gateway Clinic.

[8] It was during this one month that relations with the complainant became problematic. The complainant reacted in a vindictive way to remove some of the charts from his home office. This situation arose suddenly and unexpectedly.

## **Principle in Establishing the Penalty**

[9] Specific deterrence. Dr. Cowan has had two admitted charges of unprofessional conduct. They are separated by 15 years, but both involve similar lapses in judgment.

[10] Age of offending physician. Dr. Cowan is 59 years old. He has had a long career serving the people of Saskatchewan. His career is not unblemished. With his experience one would think that this type of conduct would not be repeated.

[11] Protection of the public. Council is unaware of any harm to patients due to Dr. Cowan's unsecure storage of files. There is however always the potential for harm.

[12] General deterrence. Council must be firm in its resolve to ensure the privacy of patient records. Physicians must at all times store patient records in a safe and secure environment.

## **Penalty**

[13] There must be general deterrence to the profession with regard to patient records. Council must consider any unsecure storage of patient records as having the potential for patient harm. If harm does not happen that does not diminish their seriousness of improper patient record handling and storage.

[14] Council considered that Dr. Cowan's previous unprofessional conduct was 15 years ago, but was also concerned that it involved the same individual. Council notes Dr. Cowan's conduct has not involved patient care.

[15] Council agreed with the Registrar that a reprimand and suspension was appropriate. Council also imposed a fine of \$2,000.00 as specific and general deterrence. Council was concerned about the judgment shown by Dr. Cowan that led to the charges. Council determined that an ethics course will help Dr. Cowan develop insight into his behavior.

[16] Council noted that the conduct did not harm patients, and therefore will hold Dr. Cowan's suspension in abeyance provided he completes his ethics course.

[17] Council does not routinely include the cost of a penalty hearing in the calculation of costs to be imposed on a physician at the time of penalty.

Council does routinely apply the costs of the investigation to all physicians who are found guilty of unprofessional conduct. The membership of the College should not be expected to bear the costs of an investigation ending in a plea or finding of guilt. The payment of costs will be imposed on Dr. Cowan.

[18] The Council imposes the following penalty on Dr. Cowan

- 1) Pursuant to Section 54(1)(e) of *The Medical Professional Act, 1981*, the Council hereby reprimands Dr. Cowan. The format of that reprimand to be determined by the Council;
- 2) Pursuant to Section 54(1)(f) of *The Medical Professional Act, 1981*, the Council hereby imposes a fine of \$2,000 to be paid by no later than 29 September, 2017.
- 3) Pursuant to Section 54(1)(b) of *The Medical Profession Act, 1981*, the Council hereby suspends Dr. Cowan for a period of one month, (held in abeyance provided Dr. Cowan participate in an Ethics Course acceptable to the Registrar, to be completed in a time deemed appropriate by the Registrar).
- 4) Pursuant to section 54(1)(i), the Council directs Dr. Cowan to pay the costs of and incidental to the investigation and hearing in the amount of \$10,665.91. Such payment shall be made in full by September 29, 2017.
- 5) Pursuant to section 54(2), if Dr. Cowan should fail to pay the costs as required by paragraph 4, Dr. Cowan's licence shall be suspended until the costs are paid in full.
- 6) The Council reserves to itself the right to reconsider and amend the time within which payment of costs must be made as set out in paragraph 4. Such reconsideration shall only be done if requested by Dr. Cowan.

**Accepted by the Council of the College of Physicians and Surgeons of Saskatchewan: 25 November, 2017**



*College of  
Physicians and Surgeons  
of Saskatchewan*

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REGISTRAR  
KAREN SHAW, M.D.

2 October, 2017

Dr. Ian Cowan

[Redacted address block]

Dear Dr. Cowan,

On 16 June 2017 the Council of the College of Physicians and Surgeons of Saskatchewan accepted your admission of guilt to charges of misconduct. Following deliberation, penalty was determined. One component of that penalty was an official reprimand by the Council. It was the will of Council that I personally compose the reprimand.

***You, Dr. Ian Cowan, having been found guilty of professional misconduct while practising medicine in the province of Saskatchewan are hereby reprimanded by the Council of the College of Physicians and Surgeons of Saskatchewan.***

The Council has spent a great deal of time in the consideration of this matter. It was recognized by the Council that you were subject to severe personal stressors both prior to and at the time of the offences. It was understood that the complexity of your personal relationships impacted both the nature and reporting of the offences to which you have admitted guilt. Unfortunately, neither your family issues, nor your personal relationships can be accepted as justification for your actions, although they can be, and have been, considered as mitigating factors in the determination of your penalty.

Continued.....

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

I hope that you will consider the paramount importance of maintaining the privacy of your patients in the future. While we are all subject to the rigors of practise and our personal lives, we must remain constantly vigilant with respect to maintaining control of medical records. Our personal circumstances or inconveniences, must not result in the careless treatment of confidential medical charts. You have learned by unfortunate experience that one cannot, and must not, entrust patient confidentiality to others under even the most intimate of circumstances. The careless loss of control of patient records to a third party is an unthinkable breach of patient confidence. Thankfully, the results of your misconduct had no tangible negative effect on the wellbeing of the patients involved. The true significance of this unfortunate set of circumstances lies in the narrowly avoided potential for harm, rather than actual harm observed.

The more significant aspect of your misconduct lies in your admission to the distribution of an illegal narcotic. The Council was not moved by arguments regarding your perception of your conduct as harmless. Regardless of the current political climate, at the time of your misconduct, and to this very day your actions were illegal and bring disrepute on yourself and the profession. The distribution of illegal drugs is entirely unjustifiable and should be considered shameful of any person, much less a practicing physician. You must strive in future to hold yourself to a higher standard of personal and professional conduct.

Moving forward, the Council wishes to encourage you to avoid situations where unhealthy personal relationships or unavoidable family stressors allow you to fall into a spiral of poor decision making that brings you into conflict with the established code of ethics we must all strive to espouse. You have been tasked with the completion of a course in ethics, which we trust will provide you with a framework for decision making that permits you to practise in a manner that maintains the confidence of your patients, and the respect of your colleagues.

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[REDACTED]

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