

COLLEGE OF PHYSICIANS & SURGEONS OF ALBERTA

IN THE MATTER OF
A HEARING UNDER THE *HEALTH PROFESSIONS ACT*,
R.S.A. 2000, c. C-7

AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF DR. ALTAF KHUMREE

**DECISION OF THE HEARING TRIBUNAL OF
THE COLLEGE OF PHYSICIANS
& SURGEONS OF ALBERTA**

I. INTRODUCTION

The Hearing Tribunal held a hearing into the conduct of Dr. Altaf Khumree on January 30, 2020. The members of the Hearing Tribunal were Dr. Alasdair Drummond as Chair, Dr. Erica Dance and Mr. Jim Lees, Public Member.

In attendance at the hearing were Dr. Michael Caffaro, Complaints Director of the College of Physicians and Surgeons of Alberta (the “College”) and Mr. Craig Boyer, legal counsel for the Complaints Director. Also present was Ms. Valerie Prather, legal counsel for Dr. Khumree. Dr. Altaf Khumree attended the hearing by videoconference accompanied by Ms. Jasmeet Singh, co-counsel for Dr. Khumree.

Mr. Gregory Sim acted as independent legal counsel for the Hearing Tribunal.

II. PRELIMINARY MATTERS

Neither party objected to the composition of the Hearing Tribunal or its jurisdiction to proceed with the hearing. There were no matters of a preliminary nature.

III. ALLEGATIONS

The Amended Notice of Hearing listed the following allegations:

1. that between June 10, 2011 and December 29, 2014 you did have an inappropriate personal relationship, including sexual intercourse with your patient D¹;
2. that you did inappropriately prescribe to yourself drugs requiring a prescription on one or more of the following occasions:
 - a. on or about February 7, 2012;
 - b. on or about March 6, 2012;
 - c. on or about April 2, 2012;
 - d. on or about May 5, 2012;
 - e. on or about May 19, 2012;
 - f. on or about June 30, 2012;
 - g. on or about September 26, 2012;
 - h. on or about November 27, 2012; and
 - i. on or about April 7, 2015;
3. that you did fail to disclose to the College of Physicians & Surgeons of Alberta when completing your registration information form for renewal of your Practice Permit the following:
 - a. that you had been charged with a criminal offence, specifically impaired driving; and
 - b. that you had engaged in a sexual relationship with your patient D;

All of which is contrary to the provisions of the *Health Professions Act*, R.S.A. 2000, c. H-7 as amended, the Regulations, Standards of Practice or Bylaws enacted pursuant thereto, constituting unprofessional conduct.

¹ Names have been removed from this decision to order to protect the identity of third parties.

IV. EXHIBITS

The parties entered a book of exhibits into evidence by agreement as Exhibit 1 (“Exhibit Book”). It included the Notice of Hearing returnable September 16, 2019 and an Amended Notice of Hearing returnable January 30, 2020. The Exhibit Book contained all of the evidence relied upon by the parties at the January 30, 2020 hearing.

V. SUBMISSIONS

Mr. Boyer advised the Hearing Tribunal that the parties had reached an agreement regarding admissions to the allegations in the Amended Notice of Hearing. Mr. Prather confirmed this and Dr. Khumree stated that he admitted the allegations.

Mr. Boyer then submitted that pursuant to section 70 of the *Health Professions Act*, the Hearing Tribunal can accept Dr. Khumree’s admissions of unprofessional conduct provided the Tribunal is satisfied that there is sufficient evidence upon which to base those admissions. Mr. Boyer gave an overview of the evidence in the Exhibit Book, described below. Mr. Boyer concluded with his submission that as all of Dr. Khumree’s admitted conduct predated the Bill 21 amendments to the *Health Professions Act*, there was no need for the Hearing Tribunal to consider those provisions, or any mandatory sanctions orders.

In her submissions, Ms. Prather explained that Dr. Khumree had been working with the College’s Physician Health Monitoring Program when it was determined that he would be required to self-report his conduct to the College. Ms. Prather explained that the allegations currently before the Hearing Tribunal originated with Dr. Khumree’s self-report. Ms. Prather also agreed with Mr. Boyer that the Bill 21 amendments to the *Health Professions Act* do not apply to this matter.

VI. EVIDENCE

The Hearing Tribunal carefully considered Dr. Khumree’s admissions and the submissions by Mr. Boyer and Ms. Prather as well as the evidence summarized below. The Hearing Tribunal determined that it would accept Dr. Khumree’s admissions to all three allegations.

In early 2016 Dr. Khumree was working with Dr. Susan Ulan, Assistant Registrar with the College’s Physician Health Monitoring Program when Ms. Prather assisted him to disclose to Dr. Ulan that he had potentially committed a boundary violation. Ms. Prather wrote to Dr. Ulan disclosing on Dr. Khumree’s behalf that in 2011 Dr. Khumree began to treat a personal acquaintance as a patient. Subsequently Dr. Khumree began a personal relationship with this patient D. They resided together as of mid-2012 but Dr. Khumree also continued to see patient D in his practice until she began to see another physician. Dr. Khumree and patient D stopped living together in late 2014. After receiving Ms. Prather’s letter explaining this situation, Dr. Ulan reported the matter to Dr. Caffaro, the College’s Complaints Director.

Dr. Caffaro accepted Dr. Ulan's letter and treated the information as a complaint. Dr. Caffaro commenced an investigation of the matter and requested Dr. Khumree to agree to an interim undertaking. The undertaking required Dr. Khumree to have a chaperone present for all sensitive examinations of female patients until the matter was resolved. Dr. Khumree agreed to the undertaking.

Dr. Khumree provided a written response to the complaint on March 15, 2016. In his response, Dr. Khumree first explained that he did not have patient D's medical records at his current place of employment so his response was based on his best recollection. Dr. Khumree then explained that he began practicing medicine in Canada in March 2011. He was introduced to patient D through an acquaintance. Patient D asked Dr. Khumree if he would see her as a patient and refill a prescription. Dr. Khumree agreed and saw patient D a few times in 2011. Dr. Khumree wrote that "[b]y January 2012, it was clear that [Patient D] and I were interested in each other." Although Dr. Khumree told patient D that it would be wrong for him to treat her and be in an intimate relationship with her, the two moved in together in mid-2012, before patient D had obtained a new physician. Dr. Khumree said that patient D eventually began seeing a new physician in mid-2013 when he found a family physician for her. Dr. Khumree said he had insisted that patient D begin to see this new physician instead of him. Dr. Khumree's written response said he had not seen patient D as a patient since mid-2013.

Dr. Khumree's written response also explained that while he was involved with patient D he developed an alcohol use disorder that was exacerbated by his relationship with patient D and the ongoing conflict regarding his desire for patient D to obtain "independent medical care." He said that he did and still does love patient D and he found it difficult to refuse to attend to her medical needs while she was looking for a new physician. As Dr. Khumree's alcohol use disorder escalated, his relationship with patient D deteriorated and they ceased living together in November 2014. Dr. Khumree sought treatment for his alcohol use disorder in June 2015.

Mr. Boyer drew the attention of the Hearing Tribunal to pages 18-27 of the Exhibit Book which was a listing of the medical services provided to patient D and the service providers. This document confirmed that Dr. Khumree continued to see and provide medical care to patient D between June 2011 and April 2015, confirming that Dr. Khumree continued to see and treat patient D while they were living together and involved in an intimate personal relationship. This persisted for approximately 2 ½ years, between mid-2012 and late 2014. Patient D's medical records demonstrated that Dr. Khumree saw her as a patient and prescribed medications for various issues, including depression and mental health concerns.

The Exhibit Book also contained a Patient Prescription Summary for prescriptions Dr. Khumree wrote for himself. These records demonstrated that Dr. Khumree signed and filled prescriptions for himself on various dates as described in allegation 2, including prescriptions for codeine, zopiclone and zolpidem.

The Exhibit Book also contained a copy of Dr. Khumree's responses to questions asked of him on the College's registration information form for renewal of his Practice Permit for 2014, 2015 and 2016. For his 2014 and 2015 renewals, Dr. Khumree responded "N", for "no" to the question "Have you ever been charged, pleaded guilty, or been found guilty of a criminal offence in Canada, or an offence of a similar nature in a jurisdiction outside of Canada, for which you have not been pardoned and that has not previously been reported" to the College? In 2016 Dr. Khumree responded "Y" for "yes" to these questions. He disclosed that he was charged with impaired driving in May 2014. The evidence in the Exhibit Book documented that in April 2013 Dr. Khumree was charged with operating a motor vehicle with a blood alcohol level exceeding the legal limit and with driving while impaired. These charges were subsequently vacated based on medical evidence. Dr. Khumree was charged with driving with a blood alcohol level exceeding the legal limit again in May 2014. He was convicted of this charge on January 30, 2015. Dr. Khumree therefore provided an inaccurate response to the question on his 2015 Practice Permit renewal.

In his 2014 and 2015 renewal applications Dr. Khumree also responded "N" for "no" to the question "Are you presently, or have you ever, engaged in a sexual or inappropriate personal relationship with a patient that has not been previously reported" to the College? In his 2016 application, Dr. Khumree disclosed that he had treated his common-law partner, patient D for depression and mental health concerns "for a period roughly extending from 2011-2013." As above, Dr. Khumree did not cease living with patient D until late 2014, while his medical records demonstrated that he continued to treat her until April 2015. Dr. Khumree therefore provided inaccurate responses to this question on his 2014 and 2015 renewals.

VII. FINDINGS

Allegation 1

Allegation 1 alleged that between June 10, 2011 and December 29, 2014 Dr. Khumree had an inappropriate personal relationship, including sexual intercourse with patient D.

Dr. Khumree admitted that patient D became his patient in 2011 and that he engaged in an intimate personal relationship with her and indeed, that they resided together in the period between 2012 and 2014. Dr. Khumree's medical records confirmed that he had continued to treat patient D from 2011 until April 2015.

There is no question that Dr. Khumree appreciated that his conduct was wrong. He explained that patient D only began to see a new physician when Dr. Khumree found a new physician for her and insisted that she see the new physician instead of him. The Hearing Tribunal concluded that Dr. Khumree's admitted conduct breached the College's Standard of Practice on Sexual Boundary Violations, which prohibits physicians from initiating or responding to any form of sexual advance from a patient.

A sexual boundary violation with any patient is serious, but Dr. Khumree was treating patient D for depression and mental health concerns and prescribing medications. There was a significant risk that patient D could have developed feelings of dependency on Dr. Khumree due to the nature of their personal relationship. There was also a significant risk that Dr. Khumree's clinical judgment could have been compromised and that patient D could have suffered harm. Dr. Khumree's conduct was very serious. The Hearing Tribunal accepted Dr. Khumree's admission and found his conduct alleged in allegation 1 proven and that it amounts to unprofessional conduct.

Allegation 2

Allegation 2 alleged that Dr. Khumree inappropriately prescribed drugs requiring a prescription to himself on one or more occasions between 2012 and 2015.

The Exhibit Book contained Dr. Khumree's Patient Prescription Summary and documented a number of prescriptions he had written for himself. The Hearing Tribunal recognized that physicians may treat themselves, but the Canadian Medical Association ("CMA") Code of Ethics provides that this should only be for minor or emergent concerns and only when another physician is not readily available. Dr. Khumree's Patient Prescription Summary documented that he wrote prescriptions for himself on numerous occasions, including prescriptions for codeine, zopiclone and zolpidem. Codeine is a narcotic and zopiclone and zolpidem are sedative medications which are not intended for emergent issues.

There was no need for Dr. Khumree to prescribe medications for himself so many times or to prescribe these particular medications for himself. The Hearing Tribunal accepted Dr. Khumree's admission that his conduct was inappropriate and found that it contravened the CMA Code of Ethics and harmed the integrity of the medical profession. Dr. Khumree's conduct was serious as these medications may be prone to abuse and he should have consulted another physician for assistance with his prescriptions. The Hearing Tribunal concluded Dr. Khumree's conduct was unprofessional.

Allegation 3

Allegation 3 alleged that Dr. Khumree failed to disclose to the College when completing his registration information form for renewal of his practice permit that he had been charged with impaired driving and that he had engaged in a sexual relationship with patient D.

Dr. Khumree provided an inaccurate response to the question on his 2015 registration information form denying that he had been criminally charged with impaired driving. Dr. Khumree was criminally charged in May 2014 and was aware of the charge when he completed the form for 2015. Providing inaccurate information to one's own regulatory College undermines the College's ability to carry out its public protection mandate and harms the integrity of the medical profession in the eyes of the public. The Hearing

Tribunal accepted that Dr. Khumree's failure to disclose the fact that he had been criminally charged in May 2014 was unprofessional conduct.

For the same reasons, Dr. Khumree's failure to report that he had, or was engaging in a sexual or inappropriate personal relationship with patient D also undermines the College's ability to carry out its public protection mandate and harms the integrity of the medical profession in the public's eye. In addition, the College's Standard of Practice: Self-Reporting to the College provides that a physician must report a sexual or inappropriate personal relationship between the physician and a patient to the College. Requiring physicians to report these matters to the College ensures that the College can effectively implement its regulatory functions and protect the public interest. If physicians do not comply with their regulatory obligations to report these matters to the College, the College will be unable to carry out its mandate and patients may be harmed. The Hearing Tribunal accepted Dr. Khumree's admission that his failure to disclose his relationship with patient D was unprofessional conduct.

VIII. ORDERS

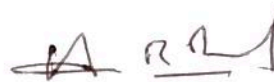
The parties jointly explained that Dr. Khumree would be attending a physician assessment process. This assessment is expected to provide the Hearing Tribunal with information on if, and how Dr. Khumree's alcohol use disorder affected his underlying conduct. The parties requested to adjourn the determination of sanctions until after this assessment was complete.

The Hearing Tribunal accepted this and adjourned the determination of sanctions. The Hearing Tribunal also accepted that all of Dr. Khumree's admitted conduct predated the enactment of the Bill 21 amendments to the *Health Professions Act* so they do not apply to this case. Either party may write to the Hearing Tribunal care of the College in order to schedule a hearing on sanctions or to suggest an alternative way to determine sanctions.

Signed on behalf of the Hearing Tribunal by
its Chair

Dated:

13/5/20



Dr. Alasdair Drummond