

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. WEQUAR AHMAD

**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. Wequar Ahmad on March 5, 2021. The members of the Hearing Tribunal were:

Dr. Colm MacCarthy of Edmonton as Chair,
Dr. Goldees Liaghati-Nasseri of Calgary, and
Ms. Archana Chaudhary of Edmonton (public member).

Ms. Mary Marshall acted as independent legal counsel for the Hearing Tribunal.

In attendance at the hearing was Mr. Craig Boyer, legal counsel for the Complaints Director of the College of Physicians & Surgeons of Alberta. Also present was Dr. Wequar Ahmad and his legal counsel, Ms. Taryn Burnett and Mr. Kristian Duff.

II. ALLEGATIONS

The Notice of Hearing listed the following allegations:

1. Between June 2017 and December 2017, you engaged in an inappropriate personal relationship with your patient, [Complainant], which included sexual intercourse.
2. You created a false entry on the chart of your patient, [Complainant], for an appointment on December 5, 2017, which indicated your patient was angry, emotionally unstable and wanted a personal relationship with you which you had declined.
3. You created late entries to the chart of your patient, [Complainant], for an appointment on December 5, 2017 without indicating in the chart note the date and time that the late entries were created.
4. You did fail to disclose to the CPSA when completing your registration information form for renewal of your Practice Permit for 2018 and 2019 that you had engaged in an inappropriate personal or sexual relationship with your patient, [Complainant].
5. Contrary to your Undertaking dated October 8, 2014, you did see your patient, [Complainant], on multiple occasions between January to December 2017 without a chaperone being present.
6. Contrary to your Undertaking dated October 8, 2014, on March 7, 2017, you did see your patient, [Patient A], and conducted a physical examination without a chaperone present even though you recorded in your chart that "Chaperone Rima present".
7. Contrary to your Undertaking dated October 8, 2014, on September 13, 2017, you did see your patient, [Patient B], and conducted a physical examination without a chaperone present, even though you recorded in your chart that "Chaperone Rima present".
8. Contrary to your Undertaking dated October 8, 2014, on November 9, 2017, you did see your patient, [Patient C], without a chaperone present, even though you recorded in your chart that "Chaperone Rima present".
9. Contrary to your Undertaking dated October 8, 2014, on November 16, 2017, you did see your patient, [Patient D], and conducted a physical examination without a

chaperone present, even though you recorded in your chart that “Chaperone Rima present”.

10. Contrary to your Undertaking dated October 8, 2014, on November 21, 2017, you did see your patient, [Patient E], without a chaperone present, even though you recorded in your chart that “Chaperone Rima present”.
11. Contrary to your Undertaking dated October 8, 2014, on November 29, 2017, you did see your patient, [Patient F], without a chaperone present, even though you recorded in your chart that “Chaperone Rima present”.
12. Contrary to your Undertaking dated October 8, 2014, on December 6, 2017, you did see your patient, [Patient G], and conducted a physical examination without a chaperone present, even though you recorded in your chart that “Chaperone Rima present”.
13. Contrary to your Undertaking dated October 8, 2014, on December 7, 2017, you did see your patient, [Patient H], and conducted a physical examination without a chaperone present, even though you recorded in your chart that “Chaperone Rima present”.
14. Contrary to your Undertaking dated October 8, 2014, on December 28, 2017, you did see your patient, [Patient I], and conducted a physical examination without a chaperone present, even though you recorded in your chart that “Chaperone Rima present”.
15. Contrary to your Undertaking dated October 8, 2014, on January 2, 2018, you did see your patient, [Patient J], and conducted a physical examination without a chaperone present, even though you recorded in your chart that “Chaperone Rima present”.
16. Contrary to your Undertaking dated October 8, 2014, on January 22, 2018, you did see your patient, [Patient K], and conducted a physical examination without a chaperone present, even though you recorded in your chart that “Chaperone Rima present”.
17. Contrary to your Undertaking dated October 8, 2014, on January 23, 2018, you did see your patient, [Patient L], without a chaperone present, even though you recorded in your chart that “Chaperone Rima present”.
18. Contrary to your Undertaking dated October 8, 2014, on January 23, 2018, you did see your patient, [Patient M], and conducted a physical examination without a chaperone present, even though you recorded in your chart that “Chaperone Rima present”.
19. Contrary to your Undertaking dated October 8, 2014, on January 20, 2018, you did see your patient, [Patient N], and conducted a physical examination without a chaperone present, even though you recorded in your chart that “Chaperone Rima present”.

III. 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. There was no application to close the hearing. Counsel for the Complaints Director stated that the names of patients would not be referred to during the course of the hearing. There were no objections from counsel for Dr. Ahmad, and this was agreed to by the Hearing Tribunal.

IV. EVIDENCE

By agreement, the parties entered an Exhibit Book with Tabs 1-14 as **Exhibit #1** and an Agreed Statement of Facts dated February 23, 2021 as **Exhibit #2**.

The Exhibit Book (**Exhibit #1**) contained the following documents:

- Exhibit 1:** Agreed Exhibit Book Containing Tabs 1 to 14
- Tab 1:** Notice of Hearing dated January 26, 2021
 - Tab 2:** Complaint form from [Complainant] dated January 7, 2018
 - Tab 3:** Letter from Dr. Caffaro to Dr. Ahmad dated January 23, 2018 regarding a new undertaking
 - Tab 4:** Undertaking by Dr. Ahmad dated January 29, 2018
 - Tab 5:** Letter from Dr. Ahmad to Dr. Caffaro dated February 21, 2018
 - Tab 6:** Dr. Ahmad's Patient chart for [Complainant]
 - Tab 7:** Extract for October 2017 to January 2018 from Telus Wolf EMR Audit field history dated April 1, 2020 regarding changes to [Complainant]'s chart
 - Tab 8:** Extract from Dr. Ahmad's CPSA Registration Information Form 2017
 - Tab 9:** Extract from Dr. Ahmad's CPSA Registration Information Form 2018
 - Tab 10:** Extract from Dr. Ahmad's CPSA Registration Information Form 2019
 - Tab 11:** Various Patient Charts indicating Rima Elakara present as chaperone for Dr. Ahmad with handwritten notes by Rima Elakara stating that she was not present
 - Tab 12:** CPSA Standard of Practice on Sexual Boundary Violations
 - Tab 13:** CPSA Standard of Practice on Self-Reporting to the College
 - Tab 14:** CPSA Standard of Practice on Patient Record Content
- Exhibit 2:** Agreed Statement of Facts

The Agreed Statement of Facts (**Exhibit #2**) contained the following agreed facts:

1. At all material times, Dr. Wequar Ahmad ("Dr. Ahmad") has been a regulated member of the College of Physicians & Surgeons of Alberta (the "CPSA").
2. Ms. Rima Elakara ("Ms. Elakara") has worked at the Vista Medical Clinic during the period of 2015 to 2020.
3. The patients noted in charges 1 to 19 of the Notice of Hearing (Tab 1 of Agreed Exhibit Book) were seen by Dr. Ahmad at the Vista Medical Clinic.
4. Ms. Elakara's duties at the Vista Medical Clinic included acting as a chaperone for female patients seen by Dr. Ahmad.

5. In 2017, Ms. Elakara noticed her name was appearing on numerous charts for female patients indicating that she had attended the appointment as a chaperone when she had not in fact been present as a chaperone for those patient encounters.
6. The records under Tab 11 of the Agreed Exhibit Book are patient records identified by Ms. Elakara as being occasions when the chart entry prepared by Dr. Ahmad indicated that Ms. Elakara was present as a chaperone when Ms. Elakara had not been present as a chaperone for those patients.
7. The handwriting on the records under Tab 11 of the Agreed Exhibit Book is Ms. Elakara's handwriting.
8. Dr. Ahmad has been served with the Notice of Hearing on January 26, 2021.

V. SUBMISSIONS

(a) Complaints Director

Mr. Boyer, on behalf of the Complaints Director, thanked counsel for Dr. Ahmad for their cooperation for reaching an agreement on the Agreed Exhibit Book, the Agreed Statement of Facts, and the admission that was brought before the Hearing Tribunal on the date of the hearing.

Mr. Boyer briefly outlined the charges against Dr. Ahmad in the Notice of Hearing. Charge #4 should state that Dr. Ahmad failed to disclose to the CPSA when completing his registration information form for renewal of his Practice Permit for 2018 that he had engaged in an inappropriate personal or sexual relationship with his patient. The complaint which is the subject of this hearing came to the College in early 2018. As such, the complaint was known to the College at the time of Dr. Ahmad's 2019 renewal of his Practice Permit.

Mr. Boyer, on behalf of the Complaints Director, reviewed the material in the Exhibits. Dr. Ahmad is not currently in practice, having agreed to withdraw from practice in January 2018. Mr. Boyer submitted that **Exhibit #1** and **Exhibit #2** provide ample evidence to conclude that the evidence supports Dr. Ahmad's admissions and that the admissions should be accepted in accordance with section 70 of the *Health Professions Act*.

(b) Dr. Ahmad

Mr. Duff, on behalf of Dr. Ahmad, stated that the charges as set out in the Notice of Hearing have been admitted.

In response to a question from the Hearing Tribunal, Ms. Burnett, on behalf of Dr. Ahmad, stated that Dr. Ahmad acknowledges and admits to the charges as set out in the Notice of Hearing except for Charge #4. Charge #4 should refer to 2018 only and not include 2019.

Submissions on Unprofessional Conduct:

(c) Complaints Director

Mr. Boyer, on behalf of the Complaints Director, submitted that the conduct violated the Standards of Practice for the College of Physicians & Surgeons of Alberta. The alteration and late entries to the medical record are covered by the Standard of Practice on Patient Record Content (**Exhibit #1**, Tab 14). The boundary violation is covered by the Standard of Practice on Sexual

Boundary Violations (**Exhibit #1**, Tab 12). Self-reporting is covered by the Standard of Practice on Self-Reporting to the College (**Exhibit #1**, Tab 13).

A violation of an undertaking given to a regulator is considered unprofessional conduct.

A sexual boundary violation is contrary to the Standards of Practice, the Code of Ethics, and the Hippocratic Oath. A sexual boundary violation is unprofessional conduct.

The creation of a false entry in a medical record violates the Standards of Practice. The medical record should not be used to create an entry to discredit the patient.

The Standard of Practice requires that if a physician is going to make a late entry in the chart, it must be noted as a late entry. The medical record is there to be an accurate and contemporaneous record of what occurred in the interaction with the patient. To make changes to the medical record without indicating them as being late entries is improper and contrary to the Standards of Practice.

The annual renewal form is one of the requirements under the *Health Professions Act*. The practice permit expires on December 31st, and a physician must apply for a new one each year. The application form requires confirmation of information. The application asks specific questions which are germane to the ethical and professional conduct of a physician. There is a duty to be honest with the regulator. If the duty of honesty is violated, that is harmful to the integrity of the profession. This constitutes unprofessional conduct.

An undertaking to resolve a prior complaint is one that is central to the integrity of the profession. Failure to comply with the undertaking is unprofessional conduct because it would leave the public with no trust that the College of Physicians & Surgeons is able to regulate its members through an undertaking. Charges #6-19 of the Notice of Hearing are examples of failure to follow an undertaking, and the creation of false entries in the medical record to hide the failure. This constitutes unprofessional conduct and is harmful to the integrity of the profession.

(d) Dr. Ahmad

Ms. Burnett, on behalf of Dr. Ahmad, submitted that there was nothing further to add at this time.

VI. FINDINGS

On review of the exhibits, the Hearing Tribunal found that the evidence proved the nineteen charges brought against Dr. Ahmad with the exception of Charge #4. Charge #4 is proven in relation to 2018 and not 2019. The Hearing Tribunal finds that Dr. Ahmad did fail to disclose when completing his registration form for renewal of his Practice Permit for 2018 that he had engaged in an inappropriate personal or sexual relationship with the Complainant.

The Hearing Tribunal is satisfied that the conduct set out in Charges #1-19 amounts to unprofessional conduct. Unprofessional conduct is defined at section 1(1)(pp) of the *Health Professions Act*, in relevant part, as: (ii) contravention of the Act, a code of ethics or standards of practice; and (xii) conduct that harms the integrity of the regulated profession.

The *Health Professions Act* states that a college must carry out its activities and govern its regulated members in a manner that protects and serves the public interest. The Hearing Tribunal concludes that the conduct in Charge #1 represents serious unprofessional conduct. This conduct is a clear violation of the Standard of Practice on Sexual Boundary Violations which

mandates that physicians must not initiate any form of sexual advance towards a patient or respond sexually to advances made by a patient. Further, the conduct in question harms the integrity of the profession and breaches the CMA Code of Ethics, in particular the provision that states that physicians must not exploit patients for personal advantage.

Charges #2 and #3 deal with the medical record. The creation of a false entry breaches the Standard of Practice on Patient Record Content. The failure to properly note late entries also breaches the Standard of Practice on Patient Record Content.

With respect to Charge #4, on his annual renewal form for 2018, Dr. Ahmad answered “no” to the question: “Are you presently, or have you ever, engaged in a sexual or inappropriate relationship with a patient that has not been previously reported to this College?” However, by his own admission, Dr. Ahmad was engaged in an inappropriate sexual relationship during 2017. The Hearing Tribunal accepts that the conduct in Charge #4 is unprofessional conduct in that it violates the Standard of Practice on Self-Reporting to the College which mandates that a physician must report to the College at the time of registration or whenever the physician becomes aware thereafter of a sexual or inappropriate personal relationship between the physician and the patient. Where a regulated member makes a false report to the College or fails to report violations of professional duties, the College loses the ability to regulate its members, and thereby is unable to effectively protect the public. This conduct harms the integrity of the profession.

Charges #5-19 deal with breach of an undertaking and creation of a false record to hide the breach. Exhibit #1, Tab 3 contains an Undertaking between Dr. Ahmad and the College of Physicians & Surgeons of Alberta dated October 8, 2014 (“2014 Undertaking”). During an investigation into a complaint alleging inappropriate conduct towards a complainant, Dr. Ahmad entered into an undertaking committing to having a chaperone present for all examinations of female patients. The complainant and Dr. Ahmad resolved the complaint in a collaborative fashion. Dr. Ahmad entered into the 2014 Undertaking to have a chaperone present for all examinations of female patients for the duration of his medical practice. The 2014 Undertaking stated that the “Practice Permit will reflect the requirement for a Chaperone until 1 February 2016 at which time it will be removed from the Practice Permit though the requirement for a chaperone remains in place in perpetuity”.

The requirements in the 2014 Undertaking were clear. A chaperone must be present for all examinations of female patients. An undertaking between a physician member and the College of Physicians & Surgeons of Alberta is a serious matter. The College must be able to govern its members in order to protect the public. When a physician has signed an undertaking, the College must be able to rely on the physician to abide by the undertaking and regard it with the utmost seriousness. Breach of an undertaking is conduct that is harmful to the integrity of the profession.

At the request of the Hearing Tribunal, Counsel for the Complaints Director provided a list and copies of decisions that supported his remarks regarding unprofessional conduct. After reviewing the decisions, the Hearing Tribunal determined that it was not necessary to use the decisions to support the Hearing Tribunal’s finding of unprofessional conduct.

VII. CONCLUSION

The Hearing Tribunal found that, on a balance of probabilities, the charges against Dr. Ahmad are proven with the change that Charge #4 applies to 2018 only, and that they do amount to unprofessional conduct.

VIII. ORDERS / SANCTIONS

The Hearing Tribunal will consider submissions from the parties with respect to appropriate orders or sanctions at a later date, to be arranged by the Hearings Director.

Signed on behalf of the Hearing Tribunal
by the Chair



April 27, 2021

Date

Dr. Colm MacCarthy