



Dr. Reynaldo CARDOSO-MEDINILLA

Council Decision

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| Date Charge(s) Laid: | September 30, 2017 |
| Outcome Date: | June 21, 2019 |
| Hearing: | Completed |
| Disposition: | Reprimand, Suspension, Conditions, Costs |

With respect to his breach of an undertaking provided to the College, his inappropriate billing of Medical Services Branch for interpretation of ultrasounds, and his performance of ultrasounds without having appropriate arrangements in place for interpretation of the scans in a timely manner, the Council of the College of Physicians and Surgeons of Saskatchewan imposes the following penalty on Dr. Reynaldo Cardoso-Medinilla pursuant to *The Medical Profession Act, 1981* (the "Act"):

- 1) Pursuant to Section 54(1)(e) of the Act, the Council hereby reprimands Dr. Cardoso-Medinilla. The reprimand will be delivered in written format.
- 2) Pursuant to Section 54(1)(b) of the Act, the Council hereby suspends Dr. Cardoso-Medinilla for a period of three months, commencing at 12:01 a.m. on 22 July, 2019 and ending at 11:59 p.m. on 21 October, 2019.
- 3) Pursuant to Section 54(1)(g) of the Act, the Council requires that Dr. Cardoso-Medinilla successfully complete an ethics course on professionalism approved by the Registrar, and provide proof of completion. Such course shall be completed at the first available date, but in any case within six months. The programs "Medical Ethics, Boundaries and Professionalism" by Case Western Reserve University and "Medical Ethics and Professionalism" by Professional Boundaries Inc. are ethics programs acceptable to the Registrar.
- 4) Pursuant to Section 54(1)(i) of the Act, the Council directs Dr. Cardoso-Medinilla to pay the costs of and incidental to the investigation and hearing in the amount of \$75,000.00 over a period of 6 months commencing June 21, 2019. Such payment shall be made in full by December 21, 2019.
- 5) Pursuant to Section 54(2) of the Act, if Dr. Cardoso-Medinilla should fail to pay the costs as required by paragraph 4, Dr. Cardoso-Medinilla'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 and the right to reconsider and amend the requirements of the retraining or education as set out in paragraph 3. Such reconsideration shall only be done if requested by Dr. Cardoso-Medinilla.

With respect to his failure to respond to communication from the Registrar, the Council of the College of Physicians and Surgeons of Saskatchewan imposes the following penalty on Dr. Reynaldo Cardoso-Medinilla pursuant to *The Medical Profession Act, 1981* (the "Act"):

- 1) Pursuant to Section 54(1)(f) of the Act, the Council imposes a fine of \$500.00 on Dr. Cardoso-Medinilla, payable within 60 days.
- 2) Pursuant to Section 54(2) of the Act, if Dr. Cardoso-Medinilla should fail to pay the fine as required by paragraph 1, Dr. Cardoso-Medinilla's licence shall be suspended until the fine is paid in full.



*College of
Physicians and Surgeons
of Saskatchewan*

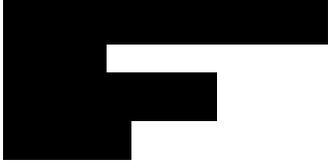
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REGISTRAR
KAREN SHAW, M.D.

16 September, 2019

Dr. R. Cardoso-Medinilla



Dear Dr. Cardoso-Medinilla,

You, Dr. Cardoso-Medinilla 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.

The circumstances which led to your professional misconduct consist of the following:

- Breaching an Undertaking provided to the College on April 30, 2012.
- Billing Medical Services Branch (“MSB”) for interpreting obstetrical and/or pelvic ultrasound when you had not done that (and were not permitted to do so pursuant to the Undertaking);
- Performing ultrasound scans without having appropriate arrangements in place for interpretation of those scans by a qualified individual within a reasonable time, and failing to respond to enquiries from the Registrar.

Council is concerned that a physician of your status could breach an undertaking. This kind of attitude is a deviation from the ethical principles and professionalism by which Council regulates its members. Your choice also shows a flagrant disregard to constituted authority; breach of your word, and a measure of lack of integrity.

Continued.....

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

By breaching the undertaking you signed with the College, you demonstrated a lack of self-regulation and disregard of College regulation. Your action undermined the public protection responsibility of the College and while there was no evidence of patient harm, it exposed the public to risk of harm. Your actions were unbecoming, improper, and discreditable. It falls below the standard expected of a member of the College.

The Council cautions you against a repetition of this kind of behaviour and hopes you have learned from your error.

Council wishes you well in your future endeavours and would hope that you will abide by the rules and regulations which govern our profession at all times.

Sincerely,

The Council of the College of Physicians & Surgeons of Saskatchewan.

**IN THE MATTER OF THE MEDICAL PROFESSION ACT, 1981,
SS 1980-81, c M-10.1, Section 86
AND IN THE MATTER OF PENALTY HEARING OF
DR. REYNALDO CARDOSO- MEDINILLA OF REGINA SASKATCHEWAN.**

JUNE 21, 2019

**Ms. Sheila Torrance appearing for the College of Physicians & Surgeons of Saskatchewan
and Mr. David Thera, Q.C. appearing for Dr. Cardoso-Medinilla**

Introduction

Dr. Cardoso-Medinilla (“Dr. Cardoso”) appeared before the Council for a penalty hearing. He was found to have engaged in unprofessional conduct following a hearing before the Discipline Hearing Committee of the College of Physicians and Surgeons of Saskatchewan.

The charges against Dr. Cardoso can be summarized as follows:

- 1) Breach of an undertaking provided to the College on April 30, 2012,
- 2) Billing Medical Services Branch (“MSB”) for interpreting obstetrical and/or pelvic ultrasound when he had not done that (and was not permitted to do so pursuant to the undertaking),
- 3) Performing ultrasound scans without having appropriate arrangements in place for interpretation of those scans by a qualified individual within a reasonable time, and failing to respond to inquiries from the Registrar.

All charges relate to circumstances surrounding an undertaking provided by Dr. Cardoso to the College following an audit by the Advisory Committee on Medical Imaging (“ACMI”) Diagnostic Imaging Quality Assurance (“DIQA”) process. This audit identified concerns with the quality of Dr. Cardoso’s interpretation of ultrasounds as well as concerns with the technical aspect of scans performed by his technologist. In his undertaking dated April 30, 2012 Dr. Cardoso undertook to immediately cease performing obstetrical and pelvic ultrasound until the College released him of the undertaking. He was so released by letter dated January 11, 2013.

Background

Dr. Cardoso is a 73-year-old obstetrician/gynecologist and maternal-fetal medicine specialist. He obtained his medical degree in Mexico in 1971. He underwent post-graduate training in Saskatchewan until 1973, and obtained his Royal College certification in obstetrics and gynecology in 1978. He has been licensed to practice medicine in Saskatchewan since 1976. He completed his maternal-fetal training in 1987 and practiced maternal-fetal medicine and gynecology in Regina until his

semi-retirement at the end of 2017. He maintains a regular license.

Dr. Cardoso owned and operated a private clinic, Regina Perinatal and Gynecological Ultrasound Inc. He employed a technologist to perform ultrasound scans, which he interpreted. He also interpreted ultrasounds in the Fetal Assessment Unit at Regina General Hospital.

In March of 2012, the ACMI released its Medical Imaging Quality Assurance Report based on its audit of Dr. Cardoso's ultrasound practice. The audit was graded as "Significant Deficiencies Identified". The College had serious concerns. Because Dr. Cardoso's standard of practice fell below the expected standard; there was a risk of harm associated to patients and, therefore, it was necessary for the College to take steps to minimize any potential risk.

The Registrar sent a letter dated April 5, 2012 to Dr. Cardoso outlining options including a voluntary withdrawal from the provision of obstetrical and pelvic ultrasound by signing an undertaking. Otherwise the matter would be placed before the Executive Committee to determine whether a suspension hearing and/or a competency assessment would be appropriate. Dr. Cardoso signed the Undertaking dated April 27, 2012. He undertook as follows: *"I will immediately cease performing obstetrical and pelvic ultrasound and will not perform obstetrical or pelvic ultrasound until I receive the approval of the College of Physicians and Surgeons to do so."*

The Registrar wrote to Dr. Cardoso on May 1, 2012 clarifying that he could continue with ultrasound limited to localization of the placenta, and determining the lie and presentation of the fetus. This was otherwise described as "point-of care" ultrasound, which is within the scope of practice of obstetrics and is not separately billable but is part of an obstetric assessment.

Once his technologist had passed her reassessment, Dr. Cardoso, knowing that he had been assessed by ACMI as deficient in his interpretation of pelvic and obstetrical ultrasound, continued to perform ultrasound, and in many cases, continued to provide an interpretation of the same to the referring physician/agency.

While Dr. Cardoso eventually did "formally" interpret the ultrasound, by the time this occurred (between 50 and 110 days after they were taken) any interpretation was likely not clinically relevant. Many of his patients were high-risk obstetrics patients and ultrasounds were a very important diagnostic tool. While Dr. Cardoso did not formally sign any reports during the period of his undertaking, he did interpret the ultrasounds and based his clinical decisions on those interpretations. Dr. Cardoso also agreed that he did not tell any referring entities, physicians or patients (either verbally or in the "preliminary" reports sent out) that he was not currently qualified to formally interpret the ultrasounds. While there was no evidence of patient harm, Dr. Cardoso's actions certainly created a risk of harm.

Position of the Registrar's Office

- Dr Cardoso breached the term of his undertaking provided to the College April 30, 2012.
- Dr Cardoso billed medical service branch for interpreting obstetrical and/or pelvic ultrasound when he had not done that (and was not permitted to do so based on his undertaking with the College).
- Dr Cardoso performed ultrasound scan without having appropriate arrangements in place for interpretation of those scans by qualified individuals within a reasonable timeframe.
- Dr Cardoso failed to respond to enquiries from the Registrar's Office.
- These actions constitute unprofessional, unbecoming, improper, discreditable conduct.
- Dr Cardoso was found guilty by the Discipline Committee of the above charges.
- It is of serious concern that Dr Cardoso disregarded and failed to abide by the undertaking provided to the College.
- Dr Cardoso should therefore be reprimanded, suspended for three months, complete an ethics course, pay cost of the investigation of \$119,337.21 and pay a fine of \$1500, for failing to respond to the Registrar.

Position of Dr. Cardoso

- Dr. Cardoso had served as an exemplary physician for forty-eight years without any record of discipline.
- He continues to provide very important service at the Maternal Fetal Care unit and his absence, if suspended will cause disruption of patient care and inconvenience to his physician colleagues.
- Dr. Cardoso had effectively served a suspension of some sort when he was prevented from performing ultrasound for about eight months.
- Dr. Cardoso had maintained professional integrity for about seven years after the incident with no record of any other disciplinary issues.
- There is no risk to reoffend and there has never been any patient safety issue.
- Deterrence is not an issue as this is a peculiar and unique case.

Council Decision

After careful consideration of the position of the Registrar's Office and that of Dr. Cardoso, the Council agreed the following penalties were sufficient:

- 1) A suspension of three months;
- 2) A reprimand to be drafted by the Council [to be delivered either in writing or in person];

3) A requirement that Dr. Cardoso successfully complete an ethics course, approved by the Registrar.

4) A requirement that Dr. Cardoso will pay costs of \$75,000

5) A fine of \$500 (specifically with respect to the failure to respond to correspondence from the Registrar.

Reasons for decision

Council deliberated carefully and upheld the Registrar's Office's recommendation for a 3-month suspension.

- It was obvious that Dr. Cardoso made treatment decisions based on the ultrasounds he performed even though he was not authorized to do so based on the conditions of his license, thereby breaching his undertaking. It is still unclear to Council based on his verbal response to questions from Councilors that he has gained insight into the gravity of his actions.
- Council considered various previous case reports. The case of Dr. Abed is most similar. He also breached an undertaking not to perform obstetric ultrasounds. He received a two-month suspension. A mitigating factor in his sentence was that he did not contest the charge and admitted his guilt at the outset therefore avoiding a hearing. Dr. Cardoso did not admit the charges. While this is not an aggravating factor, as Council believes it was his right to contest the charges, it is also not a mitigating factor. A longer suspension is justified and appropriate in his case.
- Counsel for Dr. Cardoso had requested a delay in the timing of commencement of his suspension until October 2019. While Council recognizes that there is currently a shortage of providers of high risk maternal-fetal ultrasounds in the south of the province, Council feels its first obligation is the protection of the public by ensuring its members are adequately regulated. Council also has to be consistent in its decision-making. No amount of time delay would be adequate to avoid disruption of service provision when a physician is removed from practice. As in other cases, Council believes that one month is enough notice for Dr. Cardoso and health authority administrators to make adequate arrangements to lessen the impact of the suspension on patients. Council therefore directs that the suspension should commence on July 20, 2019.

Council considered Dr. Cardoso's request to reduce the cost of the inquiry. He does not contest that he is liable to pay cost, as it is unfair for the general membership of the College to bear the cost of the inquiry. Council noted that the cost would not have been incurred if he had admitted the charges and thus avoid a contested hearing. Council also noted that it was his right to contest the hearing and it is not Council's intention to prevent anyone from exercising his or her right to contest a charge. Council also felt after considering the cost for other hearings that the cost

was disparate from other hearing costs. It therefore reduced the cost he is liable to pay to \$75,000.

The Registrar's Office had requested a fine of \$1500 for his failure to respond to correspondence from the Registrar. Council agrees that the letter did not stipulate that there is a provision in the bylaw that he must respond within 14 days neither did he receive a follow up letter. Council however feels it is unacceptable in any circumstances to disregard correspondence from the Registrar's Office or the College. It therefore reduced the fine for this action to \$500.

Council also decided that he should be formally reprimanded and should attend an ethics course that is approved by the Registrar.

Accepted by the Council of the College of Physicians and Surgeons of Saskatchewan: 1 December, 2019

Amended by the Council of the College of Physicians and Surgeons of Saskatchewan: 24 January, 2020