



College of
Physicians
& Surgeons
of Alberta

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This is Appendix "A"
to the Certificate of
Dr. Trevor Theman

CERTIFICATE OF STANDING

JEREMY GEORGE RYAN REED
MINC NUMBER: CAMD-0027-3182

MD (UNIVERSITY OF SASKATCHEWAN) 2001
FRCS (ORTHOPEDIC SURGERY) 2006
LMCC 92933

License defined to: Orthopedic Surgery

I HEREBY CERTIFY that Dr. Reed is registered with the College as follows:

Education Register	01 July 2001 to 01 May 2003
Special Register	02 May 2003 to 30 June 2006
Alberta Medical Register	01 July 2006 to 31 December 2009
General Register	01 January 2010 to Present
Registration Number	014405
Status	Active

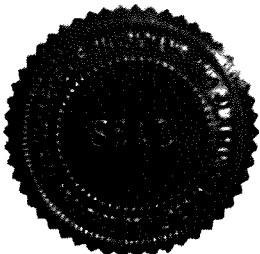
Open complaints: 2
Discipline findings: None
Terms, conditions, limitations on licensure: None
Other relevant information: None

Dr. Reed is in good standing with the College of Physicians and Surgeons of Alberta at this date.

Dated at Edmonton, Alberta this 22nd day of November 2010.

Issued to: College of Physicians & Surgeons of British Columbia.

Trevor W. Theman, MD, FRCS
Registrar



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**PLEASE NOTE—FURTHER TO THE ATTACHED
DECISION:** Items have been severed on pages 2, 3, 4, and 8 to
protect the confidential personal and health information of
individuals named and/or appearing as witnesses to the
hearing.

This is Appendix "B" to the
Certificate of Dr. Trevor
Theman

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. JEREMY REED

**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. Jeremy Reed on Thursday July 12, 2012. The members of the Hearing Tribunal were:

Dr. Don Yee of Edmonton as Chair,
Dr. Patricia Heard
Ms. Grace Brittain (public member)

In attendance at the hearing was Mr. Craig Boyer, legal counsel for the College of Physicians & Surgeons of Alberta. Also present was Dr. Karen Mazurek, the Complaints Director for the College, Dr. Jeremy Reed and Ms. Karen O'Keeffe, legal counsel for Dr. Reed.

Also present was Mr. Sean Ward who acted as independent legal counsel to the hearing tribunal.

Public members present at the Hearing [REDACTED]
[REDACTED]
[REDACTED]

There were no objections to the composition of the Hearing Tribunal or the jurisdiction of the Hearing Tribunal to proceed with a hearing.

II. ALLEGATIONS

The allegations to be considered by the Hearing Tribunal were set out in the Amended Amended Notice of Hearing (Exhibit 3), which were as follows:

It is charged:

1. On or about October 31, 2008 you did inappropriately cause or permit a photograph to be taken of yourself and your patient in the operating room without the informed consent of the patient, contrary to Section 23 of the *Health Information Act*.
2. On or about December 9, 2008, you did inappropriately disclose confidential information about your patient, [REDACTED], to person(s) unconnected to the care of your patient and without the consent of the patient, contrary to Section 31 of the *Health Information Act*.
3. On or about February 16, 2009, you did inappropriately disclose confidential information about your patient, [REDACTED], to person(s) unconnected to the care of your patient, and without the consent of the patient, contrary to Section 31 of the *Health Information Act*.

III. PRELIMINARY MATTERS

Ms. O'Keeffe pointed out that Dr. Reed would arrive late for the Hearing as his luggage had been lost en route to Edmonton and he was waiting for a clothing store to open so that he could purchase clothing appropriate for the Hearing. Ms. O'Keeffe pointed out that upon his arrival, Dr. Reed would address the panel regarding the allegations/charges.

IV. EVIDENCE

The parties entered the following documents by Agreement as Exhibits 1-26 at the hearing:

Notice of Hearing dated March 5, 2012	Exhibit 1
Amended Notice of Hearing dated March 21, 2012	Exhibit 2
Amended amended Notice of Hearing dated May 2, 2012	Exhibit 3
Letter of complaint from [REDACTED] dated January 11, 2011	Exhibit 4
Letter of Response from Dr. Reed dated June 14, 2012	Exhibit 5
Certificate of Completion from The Canadian Medical Protective Association - Privacy and Confidentiality "Breaches"- June 20, 2011	Exhibit 6
Certificate of Completion from The Canadian Medical Protective Association - Privacy and Confidentiality "Circle of Care"- June 20, 2011	Exhibit 7
Certificate of Completion from The Canadian Medical Protective Association Privacy and Confidentiality "Challenge" – June 20, 2011	Exhibit 8
Email dated October 31, 2008 from Dr. Reed to [REDACTED], [REDACTED], and [REDACTED] containing image of Dr. Reed wearing A beanie hat in an operating theater with part of a male patient's Shoulder and torso visible in the photograph	Exhibit 9
Email dated December 9, 2008 from Dr. Reed to [REDACTED], Showing the name of Dr. Reed's patient, [REDACTED], her personal health number, her date of birth, her age, and address on an Aspen Health Region form	Exhibit 10
Email dated February 10, 2009 from Dr. Reed to [REDACTED] and [REDACTED] attaching a digital image of a femur fracture with no Identifying patient information contained	Exhibit 11
Email dated February 11, 2009 from Dr. Reed to [REDACTED] and [REDACTED] with an attached diagnostic imaging showing a repaired femur, with several individuals' names visible below the image, but no clear indication as to which patient was the subject of the diagnostic imaging	Exhibit 12
Email dated February 16, 2009 from Dr. Reed to [REDACTED] with [REDACTED] pelvic diagnostic imaging with her full name and date of birth visible	Exhibit 13
Letter from Ms. O'Keeffe dated December 19, 2011 to [REDACTED]	Exhibit 14
Letter from Ms. O'Keeffe dated December 19, 2011 to [REDACTED]	Exhibit 15
Letter from Ms. O'Keeffe dated December 19, 2011 to [REDACTED]	Exhibit 16
Letter from Ms. O'Keeffe dated April 16, 2012 to [REDACTED]	Exhibit 17
Letter from Complaints Director dated April 17, 2012 to [REDACTED]	Exhibit 18
Letter from Complaints Director dated April 18, 2012 to [REDACTED]	Exhibit 19
Letter of apology from Dr. Reed dated April 23, 2012 to [REDACTED]	Exhibit 20
Letter of apology from Dr. Reed dated April 23, 2012 to [REDACTED]	Exhibit 21
Letter dated June 20, 2012 from Alberta Health Service with attachment	Exhibit 22
Letter dated June 9, 2012 from Professional Boundaries, Inc.	Exhibit 23
Medical Ethics and Professionalism course outline	Exhibit 24
Email dated December 19, 2011 from [REDACTED] to [REDACTED]	Exhibit 25
Receipt from Professional Boundaries Inc. for payment of course fee	Exhibit 26

Mr. Boyer provided full color copies of photographs on pages 21 and 28 of the exhibit book. These were labeled pages 21.1 and 28.1 respectively.

Mr. Boyer advised the Tribunal that upon his arrival, Dr. Reed would be acknowledging the allegations and admitting them as true and that the conduct was unprofessional conduct within the meaning of the *Health Professions Act* (HPA). An Admission and Joint Submission Agreement will be presented and signed by Dr. Reed.

Prior to Dr. Reed's arrival, Ms. O'Keeffe pointed out to the Tribunal that Dr. Reed has admitted to and taken full responsibility for his actions with true regret. She urged the Tribunal to focus on Dr. Reed's actions rather than the broader issue of patient confidentiality.

Upon his arrival to the Hearing, the Tribunal Chair introduced Dr. Reed to the members of the Hearing Tribunal. Dr. Reed confirmed that he admits to all of the allegations in the Amended Amended Notice of Hearing. After taking an adjournment to review the evidence in the Exhibit book, the Tribunal found there was sufficient evidence to support Dr. Reed's admission.

Mr. Boyer called [REDACTED] as a witness. Ms. O'Keeffe called Dr. Reed as a witness.

[REDACTED]

[REDACTED] was born [REDACTED]. She is married to [REDACTED] and resides in [REDACTED] Alberta. She testified she received a letter of apology from Dr. Reed via email (Exhibit 20) shortly after being notified of the College Hearing into Dr. Reed's actions. Before she received this letter, she had no idea that Dr. Reed had inappropriately disclosed her health information. She confirmed through her family physician's clinic notes that she had seen Dr. Reed for knee problems in the past.

[REDACTED] testified that she was offended and appalled by what Dr. Reed had done. At the time Dr. Reed emailed her health information to friends, she was a real estate agent. One of the recipients of Dr. Reed's email was a real estate agent. [REDACTED] currently works in the insurance industry and both professions are self-governed and both professions hold client information confidentiality of utmost importance. Though Dr. Reed's email did not impact her career, [REDACTED] found the behavior, blatantly unprofessional, highly inappropriate and testified she doesn't think a 'slap on the wrist' would be sufficient punishment. She testified Dr. Reed's action was disrespectful to his profession and the affected individual.

Ms. O'Keeffe had no questions for [REDACTED] in cross-examination and the Tribunal members had no further questions for [REDACTED].

The Tribunal found [REDACTED] to be a credible witness. She had a calm matter-of-fact tone during her testimony and showed no sign of having any ulterior motives in her testimony.

Dr. Jeremy Reed

Dr. Reed testified he has been a practicing orthopedic surgeon since July 1, 2006. He currently practices in Regina, Saskatchewan.

Dr. Reed testified when he first learned of the complaint made to the College about his conduct, he was shocked and embarrassed. He testified that he did not intend to distribute identifying information with the photos he had emailed and that he was disappointed in himself. He

confirmed that since the complaint was made to the College, he had completed a 3-module course on ethics, confidentiality and vulnerabilities of patient information. This course is offered through the Canadian Medical Protective Association (CMPA) for Continuing Medical Education credits. Additionally, he had voluntarily participated in an American-based course on Medical Ethics and Professionalism. The course had been running since mid-May 2012 and Dr. Reed is scheduled to complete it in July 2012. Dr. Reed testified he has gained insight into the importance of respecting the physician's role in patient confidentiality and parts of the course have reminded him of how he had let down his patients and profession through his actions as outlined in the Allegations. Dr. Reed verified he participated in this course at his own time and financial expense. The course totals 16 hours and is done through conference call.

Dr. Reed expressed his genuine apology to the patients whose information he disclosed inappropriately. He indicated that he has had much reflection during the entire process and that going through the process of the investigation and hearing was a terribly stressful experience for him and his family.

In cross-examination, Dr. Reed confirmed that the photograph found on page 19 of the Exhibit book is of him wearing a beanie hat. He is posing in an operating room with one of his patients partially in the photo. Dr. Reed indicated that at the time he felt that sharing images with no identifying patient information was not an issue, but he has since learned and now understands that such photos are also a major issue.

The Tribunal did find Dr. Reed to be a credible witness and believed him when he expressed his regret, embarrassment and remorse over his actions.

V. SUBMISSIONS

Mr. Boyer presented the Admission and Joint Submission Agreement between Drs. Reed and Mazurek. In this document, Dr. Reed admits the allegations in the Amended Amended Notice of Hearing are true and that his conduct amounts to unprofessional conduct. Drs. Reed and Mazurek agree in the document that Dr. Reed would be responsible for 75% of the costs of the investigation and hearing. However, what was to be determined is if there will be a period of suspension for Dr. Reed and if so, what duration. Mr. Boyer submitted that the courts would only reject a joint submission regarding costs if it was unfit and/or it was unreasonable or contrary to the public interest and that there is no automatic default to have an investigated member pay the full costs with a finding of unprofessional conduct.

With regards to sanction, Mr. Boyer explained that there is a rehabilitative component and a deterrent component, and that the Tribunal would have to try find a balance between both goals in the final sanction against Dr. Reed. To fulfill the rehabilitative component, Dr. Reed has proactively completed the 3-module course through the CMPA and is near completing the American Medical Ethics course. Mr. Boyer did not have any further submissions regarding rehabilitation, but urged the Tribunal to address the deterrence component of the sanction, in the context of both Dr. Reed and the medical profession. Mr. Boyer submitted a sanction over and above what has already been imposed or agreed to by Dr. Reed is needed in Dr. Reed's case.

Mr. Boyer cited Sections 31-35 of the Canadian Medical Association Code of Ethics concerning Privacy and Confidentiality. Specifically, he pointed out the principles of patient confidentiality and privacy as core foundational elements of professional ethics in medicine and health care. As Dr. Reed admitting to actions breaching these sections of the CMA Code of Ethics, Mr. Boyer

submitted on behalf of the College's Complaint Director a recommendation for a 30 day suspension as part of Dr. Reed's sanction.

To support the length of the suspension Mr. Boyer presented a number of previous cases with similar themes to Dr. Reed's:

1. *Bargan v. Northwest Territories*

A 6-week suspension was given to a medical practitioner for accessing patient information and relaying it to a third party. The Court saw this length of suspension as reasonable and would not intervene.

2. *Heaslip v. The Council of the Saskatchewan Registered Nurses Association*

A nurse was found guilty of accessing patient names and addresses and relaying the information without patient consent to a third party for political reasons. The guilty nurse was suspended from nursing practice for 7 months and required to pay costs of \$36,000.00. The suspension and financial penalties were eventually reduced to 2 months and \$10,000 but the court stated in this case that patient confidentiality lies at the core of the code of ethics of all health professionals. . . . it is important therefore that the penalty reflects the societal desire to maintain patient confidentiality.

3. *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador*

Two nurses inappropriately accessed medical records of family members and co-workers and their families. The nurses received 12- and 5-day suspensions.

4. *Clark v. Complaints Inquiry Committee (Court of Appeal of Alberta)*

An accountant was accused of disclosing confidential client information to third parties. However in the course of the investigation into the allegations, the investigator was found to have disclosed confidential information to a third party. An appeal tribunal directed a stay of the discipline proceedings because of the investigator's inappropriate disclosure of confidential information.

Mr. Boyer submitted that cases involving the accounting and nursing professions summarized above reflect the seriousness of inappropriate disclosure of confidential patient/client information. Paragraph 68 from the *Heaslip* case indicates that patient confidentiality lies at the core of the code of ethics of all health professionals. He submitted that the emails containing sensitive patient information Dr. Reed sent to his friends were sent for no other reasons than to humor his friends and had no patient interests in mind.

As such, Mr. Boyer submitted on behalf of the Complaints Director of the College a recommendation for a 30-day suspension for Dr. Reed.

In her submissions, Ms. O'Keefe agreed that Dr. Reed's admitted conduct was both tasteless and immature. However she indicated that the cases Mr. Boyer referred to in his submissions were not relevant to Dr. Reed's case. She commented on the cases Mr. Boyer cited.

She submitted that while the *Heaslip* case also featured patient confidentiality as a core value, beyond that it involved a completely different set of facts and reasons compared to Dr. Reed's

case. The *Bargan* case was not similar to Dr. Reed's in that the *Bargan* case had additional complexities of child pornography and involvement with a minor. The *Clark* case and *Newfoundland and Labrador Nurses' Union* case both had completely different sets of circumstances than Dr. Reed's. Dr. Reed did not access patient information he should not have; the materials he inappropriately emailed were of patients of his and were available to him.

Ms. O'Keeffe presented the case of *Jaswel v. Newfoundland Medical Board* to highlight guiding principles for determining penalty (paragraph 36) for unprofessional conduct. She went through each principle in the context of Dr. Reed's case:

1. Gravity of proven allegations.

While Dr. Reed's emails were tasteless and immature, they were distributed to a limited number of people. Additionally, patient care was not compromised, no fraudulent behavior was involved and there were no sexual boundary violations.

2. Age/experience of the offending physician

Dr. Reed was early in his career as a surgeon at the time of the emails and is capable of changing, which he has.

3. Previous character of the physician and in particular the presence or absence of any prior complaints or convictions

Dr. Reed has no previous convictions.

4. Age and mental condition of the offended patient.

Three of the five emails Dr. Reed sent did not identify the patients and as such Ms. O'Keeffe argued there was no offended patient.

5. Number of times the offence was proven to have occurred

Of the five emails sent, three did not identify any patient. Additionally, the five emails were sent in a very limited period of time.

6. Role of the physician in acknowledging what occurred

Dr. Reed admitted to the allegations in his response to the College and since then has completed the three-module CMPA course voluntarily. He has personally sent letters of apology to the affected patients and is about to complete an Ethics course for Medical professionals. Ms. O'Keeffe presented a letter from the president of this course which confirms that Dr. Reed has attended all assignments for this course and has actively and openly participated in the course, including discussing his violation. He has demonstrated insight into his actions.

7. If the offending physician has already suffered other serious financial or other penalties as a result of the allegations having been made

Dr. Reed paid for the ethics courses he has taken since he admitted to the allegations. He has agreed to pay 75 % of the costs of the hearing and investigation.

8. Impact the incident had on the offended patient.

Ms. O’Keeffe referred to [REDACTED] testimony to how she felt about Dr. Reed’s emails. She had no other comment about [REDACTED] testimony to the Tribunal.

9. Presence or absence of any mitigating circumstances

Dr. Reed was early in his surgical career when the emails were sent. He can and has changed since admitting to the allegations. He has demonstrated humility and remorse and has been pro-active in improving himself since. Ms. O’Keeffe pointed out the emails Dr. Reed sent out were sent over 3 years ago.

10. Need to promote specific and general deterrence

Ms. O’Keeffe urged the Tribunal to consider the utility of a suspension. The emails were sent about 3 to 3½ years ago and therefore a significant amount of time has elapsed. She cited the case of *Wachtler v. College of Physicians and Surgeons of Alberta* in which it was stated that when many years pass between incidents that led to convictions and imposition of penalty, the passage of time operates to disconnect the event from the penalty. As such, Ms. O’Keeffe submitted that a suspension for Dr. Reed would be too harsh a sanction.

11. Need to maintain the public’s confidence in the integrity of the medical profession

Ms. O’Keeffe cited the case of *Westra* to characterize a reprimand as a serious form of sanction for a professional. She submitted that it would be wrong to characterize a reprimand as a ‘slap in the wrist’. She suggested to the Tribunal that a reprimand would be an appropriate sanction for Dr. Reed.

12. Degree to which the offensive conduct found to have occurred by consensus was found to be the type of conduct that would fall outside of the range of permitted conduct

Ms. O’Keeffe agreed that Dr. Reed’s admitted actions represent unbecoming conduct, but reiterated to the Tribunal that no fraud, sexual boundary violation or compromise of patient care occurred.

13. Range of sentence in other similar cases

For perspective, Ms. O’Keeffe cited several other physician cases. In the case of *Cameron v. College of Physicians and Surgeons of Ontario* in which a physician was given a 30 day suspension as part of the sanction for denying life-saving therapy to a patient. Dr. Visconti was given a 30 day suspension earlier this year by the College in a case of inappropriate billing, and failing to provide appropriate medical care to different patients featuring 31 different complaints involving 9 patients. In the court of appeal for *Visconti v. College of Physicians and Surgeons of Alberta*, the court noted that the severity of actions must be considered when determining penalty. Ms. O’Keeffe submitted that with the perspective of these cases, the Tribunal should consider the extent and severity of Dr. Reed’s admitted conduct when determining sanctions.

To summarize, Ms. O’Keeffe urged the Tribunal to consider a reprimand for Dr. Reed instead of a suspension and to keep in mind the principle of having a penalty match the offence when considering the request for a suspension for Dr. Reed. She reminded the Tribunal that Dr. Reed’s actions, while immature and tasteless, involved a very limited number of emails to a small number of people and ultimately did not compromise patient care, involve any defrauding of the system or any sexual boundary violation. With respect to the financial penalty, Ms. O’Keeffe submitted that making Dr. Reed responsible for paying 75% of the costs of the investigation and hearing was a reasonable amount.

Mr. Boyer submitted that a reprimand would be a disconnect from the importance of patient confidentiality. He noted that in the *Wachtler* case, Dr. Wachtler originally was given a 2 year suspension, and in the *Visconti* case, Dr. Visconti originally was given a 6 month suspension for 40 findings of which 9 were overturned. He submitted that neither of these 2 cases were simple and should not be taken at face value, given the significant amount of background circumstances involved with each case.

Mr. Boyer submitted that a suspension of less than 30 days for Dr. Reed would be possible and within the Tribunal’s consideration. He suggested to the Tribunal that the penalty should reflect the importance of the breached principle of patient confidentiality.

VI. FINDINGS

After hearing from the parties and review of the evidence compiled in the Exhibit Book, the Tribunal felt there was sufficient evidence to support Dr. Reed’s admission of the Allegations and accepted the joint submission of guilt. The Tribunal agreed that Dr. Reed’s conduct constitutes "unprofessional conduct", which is defined in s. 1(1)(pp) of the HPA to include conduct that breaches the Standards of Practice, or conduct that harms the integrity of the profession.

In particular, the Tribunal finds that Dr. Reed’s conduct is a breach of Standard 21 of the College’s Standards of Practice, subsections 13 and 21 which stipulate that a physician must maintain safeguards to protect against the unauthorized disclosure and access to health information and must comply with all relevant privacy legislation regarding patient records. As Dr. Reed admitted to inappropriately causing or permitting a photograph to be taken of him and a patient, an act contrary to section 23 of the *Health Information Act*, and inappropriate disclosure of confidential information of two patients to people unconnected to their care, an act contrary to section 31 of the *Health Information Act*, the Tribunal finds his conduct in these matters to be "unprofessional conduct", as defined in s. 1(1)(pp) of the HPA.

VII. ORDERS / SANCTIONS

The Tribunal also accepts the joint submission on costs and agrees that Dr. Reed should be held responsible for 75% of the costs of the investigation and hearing.

The Tribunal heard submissions from both Mr. Boyer and Ms. O’Keeffe regarding suspending or reprimanding Dr. Reed in the sanctions. Several previous cases were summarized involving physicians, nurses and accountants. These cases varied significantly and none were directly comparable to Dr. Reed’s case, as each case featured their own unique set of circumstances and consequences.

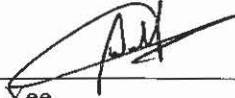
The Tribunal takes into account Dr. Reed's admission and acknowledgement of the Allegations and his efforts in rehabilitating himself since his admission to the allegations in his reply letter to the College. It is acknowledged that Dr. Reed's voluntary enrollment in the CMPA Ethics and Confidentiality course and the Medical Ethics for Professionals course are positive steps.

The Tribunal does realize that Dr. Reed's conduct did not compromise patient care and did not involve any fraudulent behavior or sexual boundary violation. Nevertheless, the Tribunal recognizes the seriousness of Dr. Reed's admitted conduct. The Tribunal finds Dr. Reed's conduct in this matter was extremely inappropriate and breached one of the core foundations of the physician-patient relationship. The confidentiality of patient information is a basic yet critical obligation all physicians have to their patients. While Dr. Reed was a relatively new practicing surgeon at the time of his conduct, this does not excuse his behaviour. The ethical responsibility to safeguard patient information should have been a core component of his medical practice from its beginning. The Tribunal sincerely hopes that Dr. Reed will share his experience and insight from this unfortunate incident with his health care team and particularly with those he is entrusted to mentor and teach in the future.

The Tribunal has carefully considered the seriousness of Dr. Reed's conduct in this matter and the relevant case law that was presented to the Tribunal to consider when determining a penalty or reprimand for Dr. Reed. Taking into consideration all of these factors, the Tribunal orders Dr. Reed to be given a suspension of 10 days in addition to the financial costs he has agreed to incur.

Signed on behalf of the Hearing Tribunal by
the Chair

Dated: 17 AUG 2012



Dr. Don Yee